
North Coast Regional Water Quality Control Board

July 8, 2016

In the Matter of
Water Quality Certification
for the
Fortuna Community Health Center Project

APPLICANT: Open Door Community Health Centers
RECEIVING WATER: Strongs Creek
HYDROLOGIC UNIT: Ferndale Hydrologic Subarea, No. 111.11
COUNTY: Humboldt
FILES: Open Door Community Health Centers; ECM PIN CW-824428;
WDID No. 1B16390WNHU

FINDINGS BY THE EXECUTIVE OFFICER:

1. On May 5, 2016, the North Coast Regional Water Quality Control Board (Regional Water Board) received an application from Open Door Community Health Centers (Applicant) requesting Federal Clean Water Act (CWA), section 401 Water Quality Certification (certification) for the Fortuna Community Health Center Project (Project).
2. **Public Notice:** Information describing the Project was noticed for public comment on the Regional Water Board's website on June 9, 2016. No comments were received.
3. **Receiving Waters:** The proposed Project will cause disturbances to jurisdictional wetlands within the Ferndale Hydrologic Sub Area (Basin Planning Area No. 111.11), within the Eel River watershed. The Project area drains into Strongs Creek after first passing through a drainage ditch that borders the northern Project boundary, and

then through an approximately 800-foot-long culvert drainage system beneath St. Joseph's Drive and Redwood Way. Jameson Creek is approximately 500 feet to the south and Strongs Creek is approximately 1,000 feet to the northwest. The two creeks join together approximately 1,450 feet west of the site.

4. **Project Description:** The purpose of the Project is to construct a new health center in the City of Fortuna. The Applicant is proposing to construct a new two-story, approximately 30,000-square-foot medical facility on an undeveloped 5.25-acre lot. Site work would include a roadway, driveways, parking, sidewalks, widening the city-maintained drainage ditch that runs westerly along the northern property boundary, a storm water detention basin, walking trails, landscaping, a community garden and wetland mitigation area.
5. **Construction Timing:** The Project is expected to be completed in two construction seasons between June 27, 2016, and October 18, 2017.
6. **Project Impacts:** Approximately 0.04 acres (1,740 square feet) of jurisdictional isolated palustrine emergent wetland will be permanently impacted as a result of Project implementation. Approximately 0.05 acres of state waters will be temporarily impacted as a result of widening a drainage ditch along the northern site boundary.
7. **Mitigation for Project Impacts:** The Applicant is proposing to create no less than 0.08 acres of seasonal palustrine emergent wetland within the Project limits. The existing jurisdictional drainage ditch will be widened from 0.05 to 0.11 acres.
8. **Disturbed Soil Area:** Project implementation will result in greater than one acre of disturbed soil area. The Applicant shall obtain coverage under the National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ) and prepare a Stormwater Pollution Prevention Plan detailing best management practices (BMPs) to control pollution from the Project area during construction. All temporarily disturbed areas within the Project area shall be appropriately stabilized and/or replanted with appropriate native vegetation.
9. **Storm Water Control and Treatment:** The Project will introduce 2.5 acres of impervious surface to a currently pervious area. The Applicant has proposed a detention basin, a vegetated swale, and Low-Impact Development (LID) design measures to treat pollutants and control storm water volume leaving the Project site, consistent with the requirements of the Phase II municipal general storm water permit (State Water Resources Control Board Water Quality Order No. 2013-0001-DWQ). Storm water control measures would treat and infiltrate the stormwater runoff volume from all impervious surfaces produced from the 85th percentile, 24-hour storm event, as required by the City of Fortuna.

10. **Total Maximum Daily Load (TMDL):** The Lower Eel River Hydrologic Area is identified as impaired for sediment, temperature, and dissolved oxygen under Clean Water Act Section 303(d). The United States Environmental Protection Agency established a TMDL for the Lower Eel River in 2007. Regional Water Board staff has found that Project implementation will not exacerbate the Lower Eel River impairment; this certification is consistent with and implements the Lower Eel River TMDL.
11. **Other Agency Actions:** The Applicant has applied to the United States Army Corps of Engineers for Nationwide Permit No. 39, *Commercial and Institutional Developments*, pursuant to section 404 of the Clean Water Act.
12. **CEQA Compliance:** As lead agency, the City of Fortuna certified a Mitigated Negative Declaration (SCH No. 2016012033) on March 9, 2016, pursuant to the requirements of the California Environmental Quality Act (CEQA).
13. **Antidegradation Policy:** The federal antidegradation policy requires that state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16. Resolution No. 68-16 incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. The Regional Water Board's *Water Quality Control Plan for the North Coast Region* (Basin Plan) implements, and incorporates by reference, both the state and federal antidegradation policies. This certification is consistent with applicable federal and state antidegradation policies, as it does not authorize the discharge of increased concentrations of pollutants or increased volumes of treated wastewater, and does not otherwise authorize degradation of the waters affected by this Project.
14. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification," which requires compliance with all conditions of this water quality certification. The Order may be accessed at this web address:

http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Receiving Water:	Strongs Creek	
Filled and/or Excavated Areas:	Permanent impacts to jurisdictional wetlands:	0.04 acres
	Temporary impacts to jurisdictional wetlands:	0.05 acres
Latitude/Longitude:	40.5817, -124.1333 ¹	
Certification Expiration:	July 7, 2021	

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the Fortuna Community Health Center Project (WDID No. 1B16390WNHU) as described in the application will comply with sections 301, 302, 303, 306 and 307 of the Clean Water Act, and with applicable provisions of state law, provided that the Applicant complies with the following terms and conditions:

All conditions of this certification apply to the Applicant (and their employees) and all contractors (and their employees), sub-contractors (and their employees), and any other entity or agency that performs activities or work on the Project as related to this Water Quality Certification.

Project-Specific Conditions

1. The Applicant shall implement the *Wetlands Mitigation and Monitoring Plan, Fortuna Community Health and Wellness Center*, dated June 3, 2016, and 0.08 acres of seasonal palustrine emergent wetland within the Project limits.
2. Mitigation success shall be subject to the review and acceptance by Regional Water Board staff, and shall not be considered successful until a minimum of five years of monitoring has occurred. Plants shall not be considered successful until irrigation has been terminated for a minimum of two years.
3. The Applicant shall implement the storm water treatment and volume control BMPs identified in the Project application, including the May 2016, Drainage Report, prepared by SHN Engineers and Geologists. BMPs identified in the application include a vegetated swale located along the northern parking lot boundary, a detention basin in the northwest corner of the Project area, which receives drainage from the abovementioned swale as well as a majority of the Project area, and LID design measures to intercept and infiltrate rainfall and storm water.

¹ WGS84 datum

Project-Specific Conditions Requiring Reports

4. Annual mitigation and monitoring reports shall be submitted annually for no less than five years following mitigation implementation (Reports). Reports shall be submitted to the Regional Water Board by January 31 and detail the monitoring results from the prior calendar year. The year 1 report shall be due January 31, 2019. Reports shall include:
 - Maintenance activities performed;
 - Monitoring methods;
 - Monitoring results;
 - Time-series photographs;
 - Status of achievement towards success criteria;
 - Recommendations for contingency measures; and
 - Implementation status of contingency measures.

Standard Conditions

5. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.
6. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
7. The validity of this certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833, and owed by the Applicant. The Project meets the low impact discharge \$200 application fee category. The Regional Water Board received \$1,401 from the Applicant on May 6, 2016. The Regional Water Board will refund \$1,201 to the Applicant.
8. This certification does not authorize drafting of surface waters. Any drafting of surface waters shall be in compliance with state water rights law and diversion requirements overseen by the State Water Resources Control Board's Division of Water Rights.
9. Herbicides and other pesticides shall not be used within the Project limits. If the Applicant has a compelling case as to why pesticides should be used, then a request for pesticide use and a BMP plan may be submitted to the Regional Water Board staff for review and acceptance.

10. Only wildlife-friendly, 100 percent biodegradable erosion and sediment control products that will not entrap or harm wildlife shall be used. Erosion and sediment control products shall not contain synthetic (e.g., plastic or nylon) netting. Photodegradable synthetic products are not considered biodegradable. The Applicant shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.
11. BMPs shall be implemented as proposed in the application materials. BMPs for erosion, sediment and turbidity control shall be implemented and in place at commencement of, during and after any ground clearing activities or any other Project activities that could result in erosion or sediment discharges to surface water. Severe and unseasonal rain events are becoming more frequent due to the effects of climate change. Therefore, BMPs shall be immediately available for deployment at all times to prevent discharges to waters of the state.
12. The Applicant is prohibited from discharging waste to waters of the state, unless explicitly authorized by this certification. For example, no debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this certification, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the state. When operations are completed, any excess material or debris shall be removed from the work area.
13. The Applicant is liable and responsible for the proper disposal, reuse, and/or recycling of all Project-generated waste in compliance with applicable state and federal laws and regulations.
14. The Applicant shall provide Regional Water Board staff access to the Project site to document compliance with this certification.
15. Work in flowing or standing surface waters, unless otherwise proposed in the project description and approved by the Regional Water Board, is prohibited.
16. If, at any time, an unauthorized discharge to surface water (including wetlands, lakes, rivers or streams) occurs, or any water quality problem arises, the associated Project activities shall cease immediately until adequate BMPs are implemented including stopping work. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.
17. All Project activities shall be implemented as described in the submitted certification application package and the findings and conditions of this certification. Subsequent Project changes that could significantly impact water quality shall first be submitted to Regional Water Board staff for prior review, consideration, and written

concurrence. If the Regional Water Board is not notified of a significant alteration to the Project, it will be considered a violation of this certification, and the Applicant may be subject to Regional Water Board enforcement actions.

18. Prior to implementing any change to the Project that may be a material change as defined in California Water Code section 13260(c) as a proposed change in character, location, or volume of the discharge, the Applicant shall obtain prior written approval of the Regional Water Board Executive Officer. If the Regional Water Board is not notified of the material change to the discharge, it will be considered a violation of this certification, and the Applicant may be subject to Regional Water Board enforcement action(s).
19. The Applicant shall provide a copy of this certification and State Water Resources Control Board (SWRCB) Order No. 2003-0017-DWQ to any contractor(s), subcontractor(s), and utility company(ies) conducting work on the Project, and shall require that copies remain in their possession at the work site. The Applicant shall be responsible for ensuring that all work conducted by its contractor(s), subcontractor(s), and utility companies is performed in accordance with the information provided by the Applicant to the Regional Water Board.
20. Disturbance or removal of existing vegetation shall not exceed the minimum necessary to complete the Project.
21. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall not result in a discharge or threatened discharge to any waters of the state including dry portions of the shoreline. At no time shall the Applicant or its contractors allow use of any vehicle or equipment, which leaks any substance that may impact water quality.
22. The Applicant shall not use leaking vehicles or equipment within State waters or riparian areas. Vehicles and equipment used within State waters shall be checked for leaks at the beginning of each work day.
23. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. In response to a suspected violation of any condition of this certification, the State Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the State Water Board deems appropriate, provided that the burden, including

costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this certification, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

24. The Regional Water Board may add to or modify the conditions of this certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.
25. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this certification by letter and shall email a copy of the letter to the following email address: NorthCoast@waterboards.ca.gov.

The successor-in-interest shall email the Regional Water Board Executive Officer at: NorthCoast@waterboards.ca.gov to request authorization to discharge dredged or fill material under this certification. The request must contain the following:

- i) Effective date of ownership change;
 - ii) Requesting entity's full legal name;
 - iii) The state of incorporation, if a corporation;
 - iv) The address and phone number of contact person; and
 - v) A description of any changes to the Project or confirmation that the successor-in-interest intends to implement the project as described in this certification.
26. Except as may be modified by any preceding conditions, all certification actions are contingent on:
 - i) The discharge being limited to and all proposed mitigation being completed in strict compliance with the Applicant's Project description and CEQA documentation, as approved herein; and
 - ii) Compliance with all applicable water quality requirements and water quality control plans including the requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan), and amendments thereto.
 27. The authorization of this certification for any dredge and fill activities expires on July 7, 2021. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Condition 4 is a requirement for information and reports. Any requirement for a report made as a condition to this certification is a formal requirement pursuant to California Water Code section 13267, and failure or refusal to provide, or falsification of such required report is subject to civil liability as described in California Water Code, section 13268.

If you have any questions or comments, please call Brendan Thompson of my staff, at (707) 576-2699, or via e-mail at Brendan.Thompson@waterboards.ca.gov .

Matthias St. John
Executive Officer

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Original to: Cheyenne Spetzler, Open Door Community Health Centers; 670 Ninth St., Suite 203, Arcata, CA 95521, CSpezler@opendoorhealth.com

cc: State Water Resources Control Board, Stateboard401@waterboards.ca.gov
Environmental Protection Agency, Region 9 R9-WTR8-Mailbox@epa.gov
Ms. Holly Costa, U.S. Army Corps of Engineers, Holly.N.Costa@usace.army.mil
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