



North Carolina Department of Health and Human Services  
Division of Health Service Regulation

Pat McCrory  
Governor

Aldona Z. Vos, M.D.  
Ambassador (Ret.)  
Secretary DHHS

Drexdal Pratt  
Division Director

**RESPONSE REQUIRED**

August 27, 2013

Jim Swann  
3717 National Drive, Suite 206  
Raleigh, NC 27612

**Conditional Approval**

Project I.D. #: K-10099-13  
Facility: FMC Tar River  
Project Description: Develop a new 10-station dialysis facility in Louisburg by relocating 7 stations from BMA Zebulon and 3 stations from FMC Eastern Wake  
County: Franklin  
FID #: 130122

Dear Mr. Swann:

The Certificate of Need (CON) Section, Division of Health Service Regulation, Department of Health and Human Services has conditionally approved the above referenced certificate of need application. This decision was made after a review of the applications submitted for this cycle and after consideration of the Certificate of Need Law, G.S. 131E-175 et. seq. and regulations promulgated there under, the State Medical Facilities Plan, and other applicable information. Attached to this letter are the required findings made with respect to your application. The applicant shall not proceed with the construction, offering or development of this project until the certificate of need is issued. Further, the Department shall not issue the certificate of need until all applicable conditions of approval that can be satisfied before issuance of the certificate of need have been met pursuant to G.S. 131E-187(a). The conditions are as follows:

1. Bio-Medical Applications of North Carolina, Inc. d/b/a FMC Tar River shall materially comply with all representations made in the certificate of need application.
2. Bio-Medical Applications of North Carolina, Inc. d/b/a FMC Tar River shall relocate no more than 10 dialysis stations to FMC Tar River, which shall include any isolation or home hemodialysis stations.



**Certificate of Need Section**

[www.ncdhhs.gov](http://www.ncdhhs.gov)

Telephone 919-855-3873 • Fax 919-733-8139

Location: Edgerton Building • 809 Ruggles Drive • Raleigh, NC 27603

Mailing Address: 2704 Mail Service Center • Raleigh, NC 27699-2704

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3. Bio-Medical Applications of North Carolina, Inc. d/b/a FMC Tar River shall install plumbing and electrical wiring through the walls for no more than 10 dialysis stations which shall include any isolation or home hemodialysis stations.
4. Bio-Medical Applications of North Carolina, Inc. shall take the necessary steps to decertify seven dialysis stations at BMA Zebulon for a total of no more than 23 dialysis stations at BMA Zebulon.
5. Bio-Medical Applications of North Carolina, Inc. shall take the necessary steps to decertify three dialysis stations at FMC Eastern Wake for a total of no more than 11 dialysis stations at FMC Eastern Wake.
6. Bio-Medical Applications of North Carolina, Inc. d/b/a FMC Tar River shall acknowledge acceptance of and agree to comply with all conditions stated herein to the Certificate of Need Section in writing prior to issuance of the certificate of need.

**Response to the above conditions should be submitted to the CON Section no later than 35 days from the date of the decision. Failure to respond within this time period may result in the CON Section making a determination not to issue a certificate of need for the project referenced above.**

The conditional approval is valid only for a capital expenditure of \$1,518,384. If a cost overrun occurs that exceeds the approved capital expenditure amount, a new certificate of need may be required as determined by G.S. 131E-176(16)(e).

The applicant should be aware that according to the Certificate of Need Law any affected person shall have thirty (30) days after the date of decision to file a petition for a contested case on this approval. Further, if you are aggrieved by the conditions of the decision you may file a petition for a contested case hearing in accordance with G.S. 150B, Article 3, as amended. This petition must be filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina 27699-6714 within thirty (30) days of the date of this decision. [Note: Effective October 1, 2009, OAH requires a filing fee with submittal of petitions for contested cases. Please direct all questions regarding this fee to OAH Clerk's Office (919-431-3000).]

G.S. 150B-23 provides that a party filing a petition must also serve a copy of the petition on all parties to the petition. Therefore, if you file a petition for a contested case hearing, you must serve a copy of the petition on the Department of Health and Human Services by mailing a copy of your petition to:

Emery Milliken  
Department of Health and Human Services,  
Office of Legal Affairs,  
Adams Building – Room 154  
2001 Mail Service Center  
Raleigh, North Carolina, 27699-2001

It is requested that a copy of the petition also be served on the Certificate of Need Section.

The certificate of need will not be issued before the completion of this 30 day period ending September 26, 2013. If a contested case request is received within the thirty (30) day period, the certificate will not be issued until the appeal is resolved (10A NCAC 14C .0208).

The timetable for completion of the project is the timetable outlined in the certificate of need application, unless an adjustment has been made by the CON Section because the review period was extended. The timetable for this project is as follows:

Completion of Preliminary Drawings	_____	January 1, 2014
Contract Award	_____	April 16, 2014
50% Completion of Construction	_____	August 14, 2014
Completion of Construction	_____	November 12, 2014
Certification of Stations	_____	December 31, 2014

If the decision is appealed, the timetable set forth in this letter will be adjusted accordingly before the Certificate of Need is issued. Please contact us if any clarification of this decision is required.

Please refer to the Project I.D. # and Facility I.D. # (FID) in all correspondence.

Sincerely,

Michael J. McKillip, Project Analyst

Martha J. Frisone, Assistant Chief  
Certificate of Need Section

MJM:MJF:se

Attachment

cc: Medical Facilities Planning Section, DHSR  
Acute & Home Care Licensure & Certification Section, DHSR

**CERTIFICATE OF SERVICE**

I hereby certify that I have served the foregoing notice of **conditional approval** on the following person by placing a copy in an official depository of the United States Postal Service in a postage-paid, first class envelope addressed as follows:

Jim Swann  
3717 National Drive, Suite 206  
Raleigh, NC 27612

Project I.D. #K-10099-13

FID #130122

This the 27<sup>th</sup> day of August, 2013

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Michael J. McKillip, Project Analyst