





When the San Diego Water Board issues a Certification for a project, it is certifying that the project will comply with water quality standards contained in regional and statewide water quality control plans and policies. In the absence of such a Certification, the federal agency (typically the U.S. Army Corps of Engineers) may not issue the federal license or permit. The San Diego Water Board may condition its Certification as necessary to ensure compliance with State water quality standards. State conditions in the Certification must be included in the federal permit or license and are enforceable by the federal permitting agency.

The CWA section 401 Certification is an important State tool to protect wetlands and riparian areas because it allows the State to issue, deny, or condition proposed dredge and fill discharges which need CWA section 404 permits. However, because it is linked to a federal permit or license, section 401 can only be used to protect waters which are within federal jurisdiction. Regulatory authority under the California Water Code is used to regulate discharges of dredge and fill material to waters of the State that are outside of federal jurisdiction.

To achieve no net loss of aquatic resources under the federal and State regulatory programs, permittees are expected to avoid deliberate discharges of materials into wetland and riparian areas and then to minimize discharges that cannot be avoided. When impacts are unavoidable, permittees are required to provide "compensatory mitigation" as a condition of the Certification. Underlying the requirement for compensatory mitigation is the assumption, that it is scientifically possible to restore or re-create various aspects of the structure and functions of wetlands and riparian areas in a variety of environments.