

Regulatory Requirements of a Complete Application

California Code of Regulations (CCR) Title 23, Section 3856 defines what constitutes a complete Section 401 Water Quality Certification application (401 Application). While a 401 Application may be deemed complete per the regulatory requirements, the San Diego Water Board can ask for information to clarify the proposed project and its potential impacts to water quality. The majority of the requirements for a complete application are self-explanatory; however, a few items may require additional information. The San Diego Water Board generally requires the following material be provided as part of the project description before an application is determined to be complete:

1. A site map showing the location of the mitigation area in relationship to the impact area.
2. A map showing existing resources within and adjacent to the mitigation area.
3. A figure showing the proposed plant layout and plant palette.
4. A discussion of the beneficial uses (as defined in the Basin Plan) that will be lost or impacted through project implementation, and how the proposed mitigation will compensate for these losses/impacts.
5. A discussion of maintenance and monitoring activities and duration.
6. A conceptual mitigation plan prepared to the Army Corps of Engineers guidelines may be submitted in lieu of the above items for an application to be considered complete. However, for a certification action to be taken, all of the information in items 1 – 5 must be provided to the San Diego Water Board.

CCR Title 23 Section 3856 - Contents of a Complete Application.

A complete application shall include all of the following information items:

- (a) The name, address, and telephone number of:
 - (1) the applicant, and
 - (2) the applicant's agent (if agent is submitting the application)
- (b) A full, technically accurate description, including the purpose and final goal, of the entire activity.
- (c) Complete identification of all federal licenses/permits being sought for or applying to the proposed activity, including the :
 - (1) federal agency;
 - (2) type (e.g., individual license, regional general permit, nationwide permit, etc.);
 - (3) license/permit number(s) (e.g., nationwide permit number), if applicable; and
 - (4) file number(s) assigned by the federal agency(ies), if available.
- (d) Complete copies of either:
 - (1) the application(s) for federal license(s)/permit(s) being sought for the activity, or,
 - (2) if no federal applications are required, any notification(s) concerning the proposed activity issued by the federal agency(ies), or,
 - (3) if no federal notifications are issued, any correspondence between the applicant and the federal agency(ies) describing or discussing the proposed activity.

If no application, notification, correspondence or other documentation must be exchanged between the applicant and federal agency(ies) prior to the start of the activity, the application shall include a written statement to this effect.

- (e) Copies of any final and signed federal, state, and local licenses, permits, and agreements (or copies of the draft documents, if not finalized) that will be required for any construction, operation, maintenance, or other actions associated with the activity. If no final or draft documentation is available, a list of all remaining agency regulatory approvals being sought shall be included.

If the federal licenses or permits required for the activity include a FERC license or amendment to a FERC license, a complete copy of a draft application for the FERC license or amendment to a FERC license meeting the requirements of Subsection 4.38(c)(4) of Title 18 of the Code of Federal Regulations is required.

- (f) A copy of any draft or final CEQA document(s), if available, prepared for the activity. Although CEQA documentation is not required for a complete application, the certifying agency shall be provided with and have ample time to properly review a final copy of valid CEQA documentation before taking a certification action.
- (g) The correct fee deposit, as identified in Section 3833 of this Chapter.
- (h) A complete project description includes:
 - (1) Name(s) of any receiving water body(ies) that may receive a discharge.
 - (2) Type(s) of receiving water body(ies) (e.g., at a minimum: river/streambed, lake/reservoir, ocean/estuary/bay, riparian area, or wetland type).
 - (3) Location of the activity area in latitude and longitude, in township/range, or clearly indicated on a published map of suitable detail, quality, and scale to allow the certifying agency to easily identify the area and water body(ies) receiving any discharge.
 - (4) For each water body type reported under Subsection (h)(2) of this Section, the total estimated quantity of waters of the United States that may be adversely impacted temporarily or permanently by a discharge or by dredging. The estimated quantity of waters to be adversely impacted by any discharge shall be reported in acres and (for channels, shorelines, riparian corridors, and other linear habitat) linear feet, except that dredging estimates shall be reported in cubic yards.
 - (5) The total estimated quantity (in acres and, where appropriate, linear feet) of waters of the United States, by type (see Subsection (h)(2) of this Section) proposed to be created, restored, enhanced, purchased from a mitigation or conservation bank, set aside for protection, or otherwise identified as compensatory mitigation for any anticipated adverse impacts. If compensatory mitigation is to be provided in some other form, that shall be explained.
 - (6) A description and conceptual plan of any other steps that have been or will be taken to avoid, minimize, or compensate for loss of or significant adverse impacts to beneficial uses of waters of the state.

- (7) The total size (in acres), length (in feet) where appropriate, type, and description of the entire project area, including areas outside of jurisdictional waters of the United States.
- (8) A brief list/description, including estimated adverse impacts of any projects implemented by the applicant within the last five years or planned for implementation by the applicant within the next five years that are in any way related to the proposed activity or that may impact the same receiving water body(ies) as the proposed activity. For purposes of this item, the water body extends to a named source or stream segment identified in the relevant basin plan.

A complete application for water quality certification need not contain unnecessarily duplicative information. If a copy of a federal application submitted to the San Diego Water Board with the 401 Application contains information requested, the information need not be provided in the application provided that the 401 Application clearly indicates, using document names and pages, where all of the required information can be found.