SPECIAL PUBLIC NOTICE

US Army Corps of Engineers®

REGIONAL GENERAL PERMIT

Regional General Permit (RGP) No. 22
Aquatic and Wetland Enhancement Activities
Lower Colorado River

Date: April 15, 2010
Point of Contact: Marjorie Blaine (520) 584-1684

TO WHOM IT MAY CONCERN:

The District Engineer, Los Angeles District, U. S. Army Corps of Engineers, hereby reissues Regional General Permit (RGP) No. 22, which authorizes the Bureau of Reclamation (Bureau), the U.S. Fish and Wildlife Service (FWS), state and local agencies, citizens' groups, or private landowners to conduct specific aquatic and wetland enhancement projects within backwaters along the Lower Colorado River, from Davis Dam (River Mile 276) bordering Arizona and California to San Luis Rio Colorado (RM 0) bordering Sonora, Mexico and Arizona. As listed in Special Condition "a", the applicant is required to provide a complete notification package to the Corps and cannot proceed with proposed aquatic and wetland enhancement activities until the Corps verifies the proposed project meets the requirements for RGP22. For additional information, please reference the attached RGP22.

This permit is being issued under Section 404 of the Clean Water Act (33 USC 1344) and Section 10 of the River and Harbor Act of 1899 (33 USC 403) and is in accordance with provisions of the Regulatory Program of the Corps of Engineers (33 CFR Part 322.2(f)) for activities which are substantially similar in nature, and which cause only minimal individual and cumulative environmental impacts. Any proposed activity that does not have minimal impacts will be processed as an individual permit.

Public Comment

A Public Notice describing the proposed RGP was issued on March 15, 2010 and sent to all interested parties (Corps mailing list), including appropriate State and Federal agencies. Comments received on the Public Notice were fully considered in the decision to issue this permit.

In accordance with the National Environmental Policy Act (NEPA), an Environmental Assessment (EA) was prepared for this RGP. This EA includes responses to all public comments received on the Public Notice and concluded that issuance of this RGP would not cause significant adverse impacts to the environment. This EA may be viewed at, or requested from the Los Angeles District of the Corps of Engineers, Tucson Resident Office.

A final copy of the terms and conditions of this RGP is attached to this public notice. For additional information, please call Marjorie Blaine of my staff at (520) 584-1684. This public notice is issued by the Chief, Arizona Branch, Regulatory Division.

LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

REGIONAL GENERAL PERMIT NO. 22
AQUATIC AND WETLAND ENHANCEMENT ACTIVITIES
LOWER COLORADO RIVER,
CALIFORNIA AND ARIZONA

Permittee:

Bureau of Reclamation, U.S. Fish & Wildlife or other Federal, state and local agencies, citizens groups, or private landowners constructing aquatic and wetland enhancement projects.

Permit Number: RGP22 (File No. 1994-4015400-MB)

Issuing Office: Los Angeles District

Effective Date: April 14, 2010 **Expiration Date:** April 14, 2015

Note: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: Following is a list of activities covered under this General Permit (see the attached drawings).

1. <u>DREDGING OF CHANNEL OR BACKWATER WATERWAYS</u> Rehabilitation shall be accomplished by dredging of channels in backwaters cut off from the mainstem of the Colorado River by using hydraulic dredges, and/or amphibious or "cookie cutter" excavators. The purpose of this activity is to reestablish meandering channel waterways which feed overgrown and sediment laden lakes and wetlands using mechanical means. Channel depths will conform to dimensions which existed when created in the 1960's. The dredge spoil shall be placed on older spoil piles unless these are being used as mitigation or for revegetation. If new areas are to be used for the placement of dredge spoil, then the vegetation shall be mapped so that spoil is placed on the lowest value habitat. Berms shall be placed around the spoil piles to prevent increases in turbidity of return water. Cattail habitats having actual; or potential Yuma clapper rail habitat shall be avoided during dredging operations.

2. <u>CREATION OF CATTAIL WETLAND FRINGE HABITATS</u> Creation of cattail/bulrush wetland fringe habitats and edges shall be accomplished by modifying banklines and building islands. Excavation shall be accomplished using ground based equipment (bulldozers, etc,). The excavated area shall support saturated soil so that wetland vegetation will become established. It shall not be excavated deeper than 6 ft. below the normal surface water elevation in order to accommodate wetland plants. Dredge spoil shall be placed in an upland location on older spoil piles or on lowest quality vegetation. Berms shall be placed around the spoil piles to prevent increases in turbidity of return water.

3. <u>PERMEABLE WATER INLET STRUCTURES AND WATER CONTROL STRUCTURES</u> Water inlet/outlet structures shall be constructed by either placing boulders or large rocks (permeable structures) in openings of levees, installing culverts, placing a combination of permeable structure with culverts, and/or establishing open inlets/outlets to permit water from the main stem of the Colorado River to flow and circulate through the backwaters. The type of structure to be placed shall be designed to avoid and minimize becoming plugged with sediment and debris. In addition, water control structures may also be used for the same purpose under this RGP where water must be regulated. The placement of these structures shall not create a navigable hazard, impair any existing wetlands, or cause cottonwood, willow or mesquite trees to be removed. Maintenance of structures previously authorized under this RGP is allowable provided it is done to the originally authorized structure specifications.

4. <u>MAINTENANCE DREDGING</u> Maintenance dredge backwaters previously authorized and dredged under this RGP to originally authorized depths and profiles. Enlarging of backwaters is not authorized under this specific activity of this RGP.

5. <u>REVEGETATION ACTIVITIES</u> Revegetation activities covered under this RGP are those which occur below the ordinary high water mark or in wetlands. Saltcedar may be removed by mechanical means (i.e. bulldozer), provided it is replaced with native riparian trees. This RGP does not authorize the replacement of cattails by riparian trees. Decadent cattails persisting above the water table where the water surface elevation has dropped since 1983 shall be restored as part of these revegetation activities in cooperation with the U.S. Fish and Wildlife Service Yuma clapper rail recovery plan.

Project Location: The activities listed above are to be performed in backwaters along the Lower Colorado River from Davis Dam (River Mile 276) bordering Arizona and California to San Luis Rio Colorado (River Mile 0) bordering Sonora, Mexico and Arizona.

Permit Conditions

General Conditions:

1. The time limit for completing activities under this general permit ends 3 years after receipt of a letter of authorization from the Corps of Engineers. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification from this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.

Special Conditions: See attached sheet.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

   (X) Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).

   ( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

   (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. Limits of this authorization.

   a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

   b. This permit does not grant any property rights or exclusive privileges.

   c. This permit does not authorize any injury to the property or rights of others.

   d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

   a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

   b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or behalf of the United States in the public interest.

   c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give you favorable consideration to a request for an extension of this time limit.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

David J. Castanon
Chief, Regulatory Division
(for the District Engineer)

4-13-10
(DATE)

SPECIAL CONDITIONS
PERMIT NO. SPL-1994-4015400-MB

a. Any permittee, other than the Bureau of Reclamation, who desires to perform activities under this RGP shall notify the Corps at the address below. Public review is not required, however, the permittee shall request written approval from the Corps prior to commencement of any activity authorized under this RGP by submitting written plans, drawings, ground level photographs of the project area, and any other documents required within these special conditions to the following address:

Mr. Bill Miller
Senior Project Manager
U.S. Army Corps of Engineers
Arizona Nevada Area Office
3636 N. Central Avenue, Suite 900
Phoenix, AZ 85012
(602) 640-5385 x 221
William.H.Miller@usace.army.mil

The Bureau of Reclamation shall contact:

Ms. Marjorie Blaine
Senior Project Manager/Biologist
U. S. Army Corps of Engineers
Tucson Resident Office, Regulatory Division
5205 E. Comanche Street
Tucson, AZ 85707
(520) 584-1684
Marjorie.E.Blaine@usace.army.mil

The permittee shall also provide written plans, drawings, and photographs to the FWS and the appropriate state/tribal wildlife agency. The contact phone numbers are provided below:

Mr. Mike Martinez, U.S. Fish and Wildlife Service, (602) 242-0210
Mr. Trevor Buhr, Arizona Game and Fish Department, Region III (928) 692-7700
Mr. Troy Smith, Arizona Game and Fish Department, Region IV (928) 342-0091
Mr. Chris Hayes, California Department of Fish and Game (760) 922-6508
Mr. Ray Aspa, Colorado River Indian Tribes Fish/Game Department (928) 669-9285

If any work authorized under this RGP will affect lands owned by the Chemehuevi Indian Tribe, Cocopah Indian Tribe, Fort Mojave Indian Tribe, or Quechan Indian Tribe, please contact the Corps for further information.

Once the permittee has received a letter of concurrence from the FWS and the appropriate state/tribal agency, he/she shall submit this letter to the Corps *with the application* and other required documentation. Work may not commence until the Corps has issued written approval of the specific project.

b. Any Federal permittee proposing work under this RGP shall complete, on their own, all Section 106 (NHPA) compliance. With the application package submitted to the Corps, the prospective permittee shall provide written concurrence from the SHPO regarding completion of Section 106. For Federal agencies, the

SHPO addresses are:

Arizona State Parks State Historic Preservation Office ATTN: Ms. Jo Anne Medley 1300 W. Washington Phoenix, AZ 85007	California Department of Parks/Recreation State Historic Preservation Office ATTN: Mr. Milford Wayne Donaldson PO Box 942896 Sacramento, CA 94296-0001

For Section 106 compliance, any non-Federal permittee shall coordinate all proposed actions with the Corps. The permittee shall notify the Corps regarding all proposed actions early in the planning process to allow completion of the Section 106 process well in advance of the commencement of the proposed undertaking.

c. Any Federal permittee proposing work under this RGP shall complete, on their own, all Section 7 (ESA) compliance. As part of the application package submitted to the Corps, the prospective permittee shall provide documentation of a "no effect" finding or written concurrence from the FWS that Section 7 consultation is complete. For Federal agencies, the FWS address is:

U. S. Fish and Wildlife Service
Arizona Ecological Services Office
2321 W. Royal Palm Road, Suite 103
Phoenix, AZ 85021-4951

For Section 7 compliance, any non-Federal prospective permittee shall coordinate all proposed actions with the Corps. The permittee shall notify the Corps regarding all proposed actions early in the planning process to allow completion of the Section 7 process well in advance of the commencement of the proposed undertaking.

d. The permittee shall develop and submit with the application package to the Corps a water-use budget to demonstrate there will be no increase to the net evaporative surface area of the Colorado River and show the existing water rights are valid. This requirement is waived if the project involves maintenance dredging of a backwater previously authorized under this RGP to previously authorized depths and profiles.

e. The permittee, with the application package, shall identify on a map locations where dredge spoil is to be placed. The permittee shall demonstrate the least damaging location for dredge spoil placement is chosen. Preferred dredge spoil locations are on existing dredge spoil piles and vegetation having the lowest value habitat. The permittee shall construct berms to surround the dredge spoil sites. These are to be placed above the ordinary high water mark (OHWM) to reduce runoff and eliminate impacts caused by turbidity or mixing zones.

f. The permittee, in their application package to the Corps, shall demonstrate avoidance of existing special aquatic sites.

g. The permittee shall submit with the application package a detailed revegetation plan to include location of revegetation, species to be planted, densities of each species, irrigation methods, etc. The permittee shall, annually for five years, provide to the Corps a monitoring report which shall indicate by use of % canopy cover, dbh, or other methodology the vegetation is in a living and growing condition. Survivability requirements are 80%. If the Corps determines revegetation efforts are not successful, the Corps may require modifications to the revegetation plan. Revegetation shall commence within 30 days of completion of the activities authorized by this RGP.

h. EPA has granted Section 401 water quality certification for this general permit on Tribal lands (April 14, 2010), Enclosure 1, provided the projects approved under this RGP comply with State adopted water quality standards as they apply to waters downstream of Tribal lands.

ADEQ issued Section 401 certification dated March 25, 2010, Enclosure 2, for this RGP for activities occurring within the State of Arizona on non-tribal lands.

The California RWQCB issued a Section 401 water quality certification for this RGP dated April 12, 2010, Enclosure 3, provided the permittee (1) comply with all requirements of the California Porter-Cologne Water Quality Control Act and (2) for all activities to be covered by the RGP in California, the responsible party will submit to the Regional Board: (a) a map of the area and description of the activity as it pertains to the RGP and (b) an as-built report which describes the final condition of the project after completion. The information shall be sent to the Board at:

California Regional Water Quality Control Board
Colorado River Basin Region
ATTN: Mr. Jay Mirpour
73-720 Fred Waring Drive, Suite 100
Palm Desert, CA 92260

i. The permittee shall contact the Arizona State Land Department at the following address to determine whether the activity occurs on State sovereign land. If so, the prospective permittee shall be required to obtain a lease or a written statement from that agency that no lease is required:

Arizona State Land Department
ATTN: Ms. Marlene Shields
1616 West Adams
Phoenix, AZ 85007

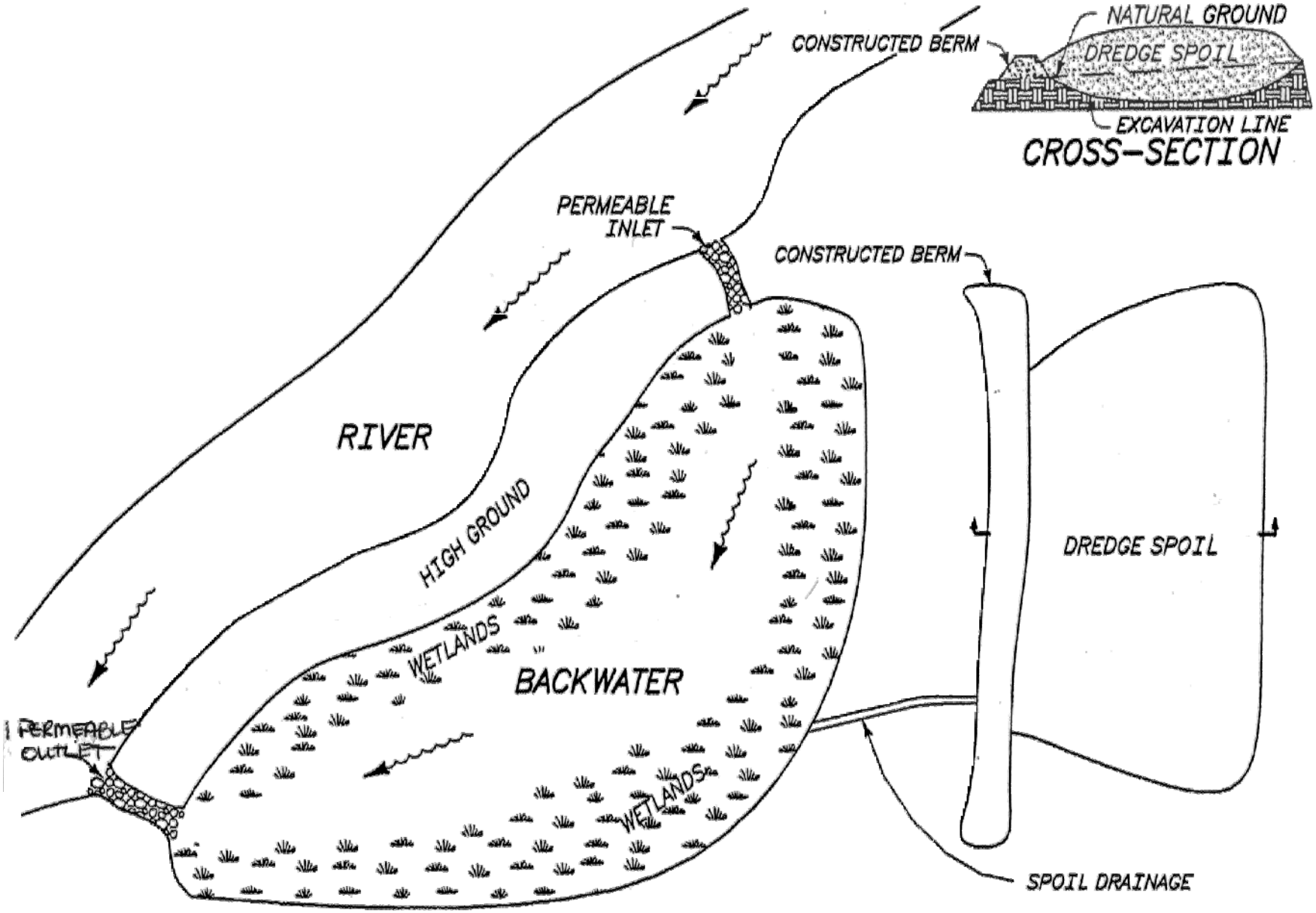
For work on any Tribal lands, the permittee shall obtain approval from the relevant Tribe(s) prior to the commencement of the activity.

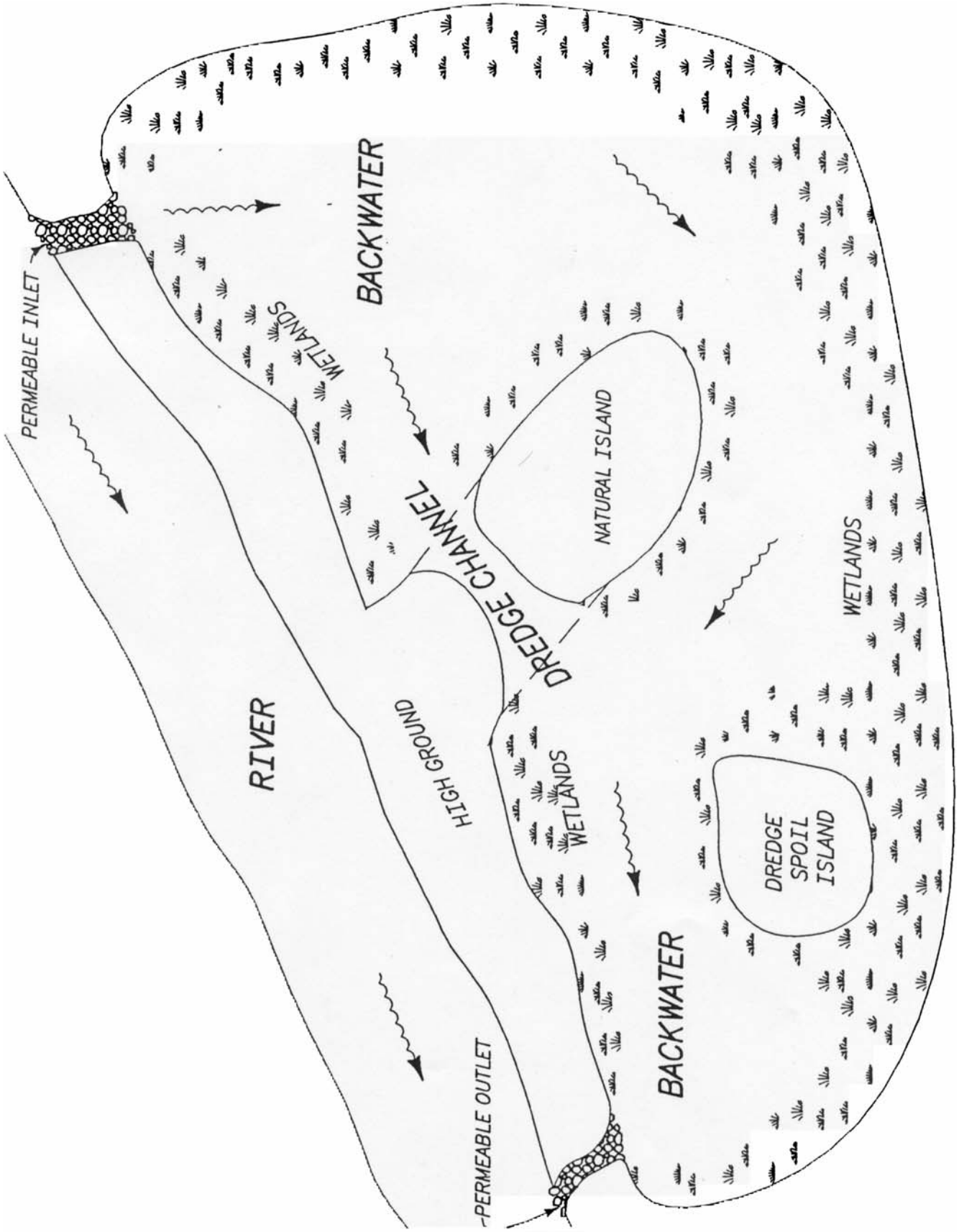
j. The permittee shall not dredge between the period of January 1 and June 30 to avoid impacts to endangered fish species during spawning.

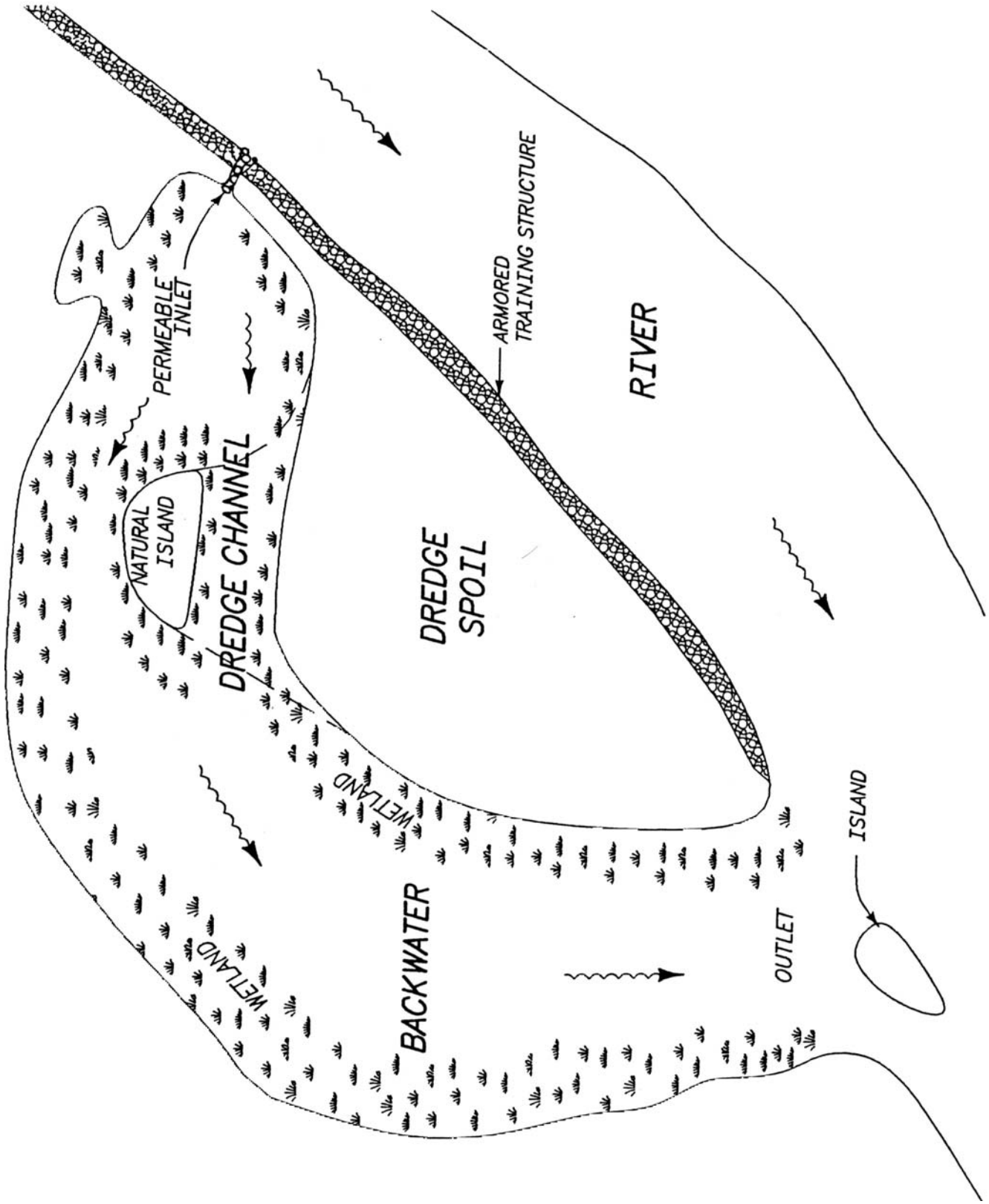
k. The permittee shall maintain the permeable water inlet structures and water control structures after they have been put in place for the life of the project. These structures shall be constructed during or immediately after completion of dredging.

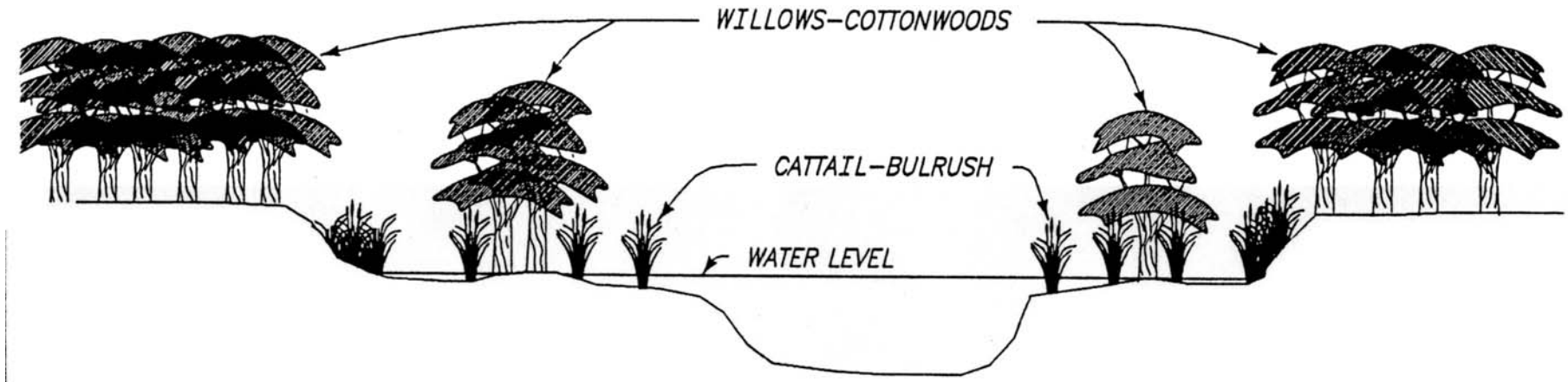
l. This permit shall be valid for 5 years after which time a new RGP shall be issued if Federal, State, and local agencies and the public support its reissuance.

m. This RGP may be modified in the future if: (1) new species become Federally listed or new critical habitat designated which could be adversely affected by the permitted activities or (2) additional information indicates activities permitted under this RGP cause significant environmental impacts.


NATURAL GROUND
DREDGE SPOIL
CONSTRUCTED BERM
EXCAVATION LINE
CROSS-SECTION
PERMEABLE INLET
CONSTRUCTED BERM
RIVER
HIGH GROUND
WETLANDS
BACKWATER
WETLANDS
DREDGE SPOIL
PERMEABLE OUTLET
SPOIL DRAINAGE

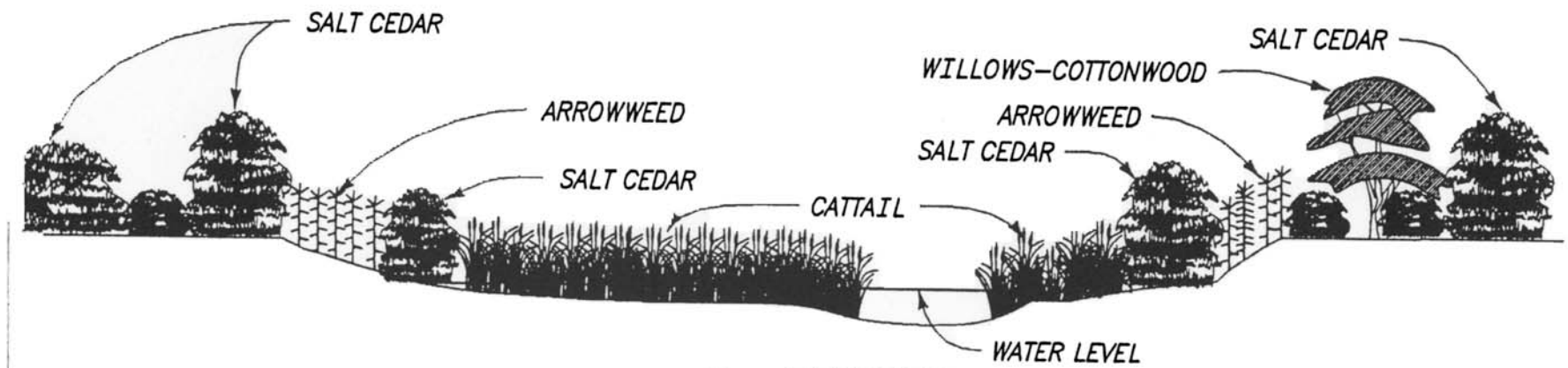

PERMEABLE INLET
BACKWATER
WETLANDS
NATURAL ISLAND
DREDGE CHANNEL
WETLANDS
RIVER
HIGH GROUND
WETLANDS
DREDGE SPOIL ISLAND
BACKWATER
PERMEABLE OUTLET


PERMEABLE INLET
ARMORED TRAINING STRUCTURE
RIVER
NATURAL ISLAND
DREDGE CHANNEL
DREDGE SPOIL
WETLAND
WETLAND
BACKWATER
OUTLET
ISLAND

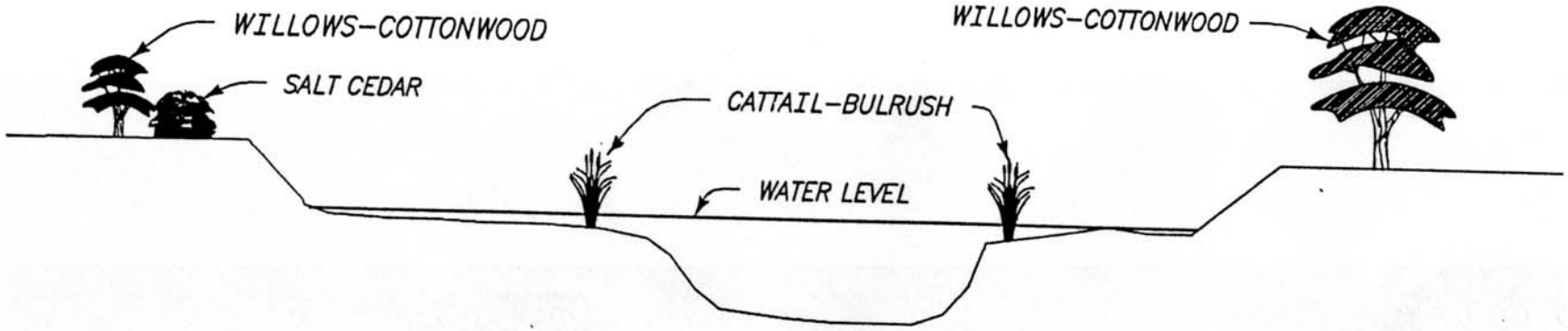


1 – HISTORICAL

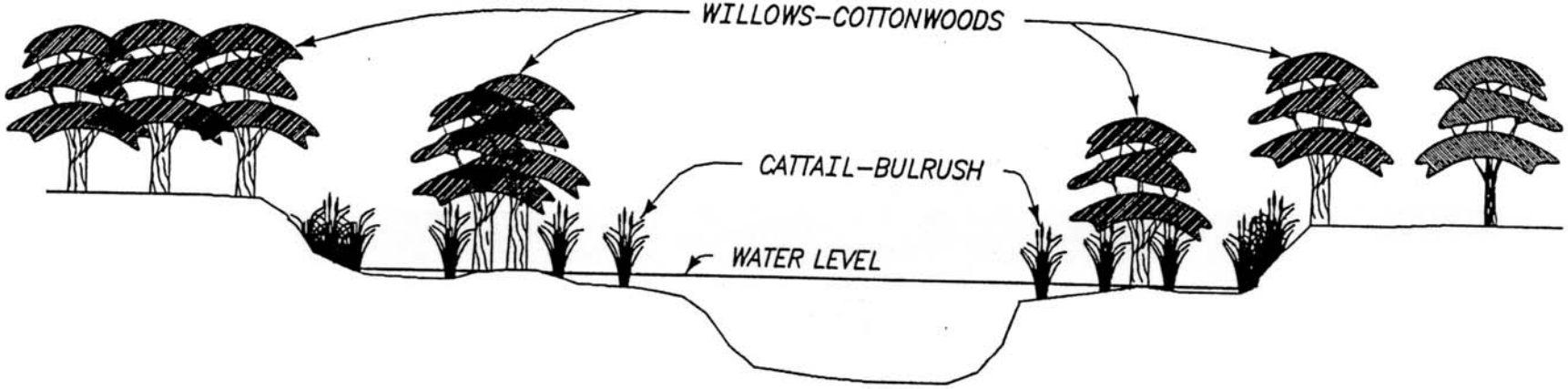
(PRIOR TO 1964)



2 – EXISTING



3 – DREDGED



4 – RESTORED

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

April 14, 2010

U.S. Army Corps of Engineers
Attn: Marjorie Blaine
Tucson Field Office, Regulatory Branch
5205 East Comanche Street
Tucson, Arizona 85707

Re: General Permit No. 22 - Public Notice (PN) SPL-1994-4015400-MB

Dear Ms. Blaine:

The U.S. Environmental Protection Agency (EPA) has reviewed the PN dated March 15, 2010. Based on the information in the PN, the Department of the Army proposes to reissue Regional General Permit (RGP) No. 22 for wetland and aquatic habitat enhancement, restoration and maintenance activities in backwaters along the Lower Colorado River from Davis Dam (RM 276) in Arizona to San Luis Rio Colorado (RM 0) bordering Sonora, Mexico and Arizona.

EPA supports the proposed activities to be conducted under the RGP to improve and restore backwater wetland habitat for fish, wildlife and recreation. We further recognize the need to conduct minor maintenance dredging to keep previously restored backwaters functioning properly. Since the Corps originally issued this permit in March 1995, RGP No. 22 has been used to authorize several backwater restoration projects with demonstrated benefits to the environment. We re-certify the Clean Water Act 401 certification for RGP No. 22 with the following condition.

> "Projects for wetland and aquatic habitat enhancement and restoration activities approved under RGP No. 22 must comply with State adopted water quality standards as they apply to waters downstream of Tribal lands."

If you have any questions regarding this certification, please contact Elizabeth Goldmann of my staff at (415) 972-3398.

Sincerely,

Jason Brush, Supervisor
Wetlands Regulatory Office

Printed on Recycled Paper

Enclosure 1

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov

Janice K. Brewer
Governor

Benjamin H. Grumbles
Director

RECE
MAR 3 0 2010
REGULATORY DIVISION
TUCSON FIELD OFFICE

March 25, 2010

401 cert reading file: **rs310:018**

Applicant: U.S. Army Corps of Engineers - Regulatory Division
Marjorie Blaine
5205 E. Comanche Street
Tucson, Arizona 85707

Subject: Clean Water Act (CWA) 401 Water Quality Certification for the proposed reissue of **RGP 22 - Aquatic And Wetland Enhancement Activities - Lower Colorado River (between Davis Dam and the border with Mexico)**
U.S. Army Corps of Engineers (Los Angeles District) File No.: **1994-4015400-MB**

Dear Ms. Blaine:

The Arizona Department of Environmental Quality (ADEQ) has reviewed the U.S. Army Corps of Engineers (CoE) public notice (10/10/08) for the subject Regional General Permit No. 22 (RGP).

Except when a proposed activity will impact a portion of the Colorado River listed under CWA § 303[d], ADEQ wishes to have the 401 Water Quality Conditions, listed below, applied to all projects (on non-tribal areas within Arizona) approved by the CoE under RGP 22. For projects impacting segments of the Colorado River listed as impaired, the applicant must apply to ADEQ for an individual 401 permit. ADEQ maintains a list of impaired waters at: http://www.azdeq.gov/environ/water/assessment/assess.html

For the purposes of this certification:

- Waters of the U.S./WUS refers to the stream channel between the Ordinary High Water Marks (OHWM) of that channel.
- Temporary means not longer than the period of this certification.
- Native material/fill is defined as pollutant-free soil, sand, gravel, etc. that makes up the streambed or adjacent banks in the immediate area of the permitted work.

General

1) Any discharge occurring as a result of activities certified for the subject project shall not cause an exceedence of state water quality standards (WQS). Applicability of this condition is as defined in A.A.C. R18-11-102.

2) This certification does not authorize the discharge of wastewater, process residues or other waste to any Water of the U.S. (WUS).

Enclosure 2

3) Runoff and seepage from activities certified herein shall not cause an exceedence of Arizona WQS for any WUS.

4) Except as allowed, specified or not prohibited in RGP 22 and this certification, activities herein certified shall be performed during periods of low flow (baseflow or less) in any watercourse or other WUS, or no flow in the case of ephemeral and intermittent waterbodies. No work shall be done, nor shall any equipment or vehicles enter any WUS while flow is present, unless all conditions herein are met.

5) The effectiveness of all control measures shall be reevaluated after each flow event and repaired/modified as needed.

Erosion and Sedimentation Prevention

6) Applicant must minimize clearing, grubbing, scraping or otherwise limit exposure of erodible surface to the minimum necessary for each construction phase or location.

7) Except as allowed, specified or not prohibited in RGP 22 and this certification, if activities certified herein are likely to create an erosion or sedimentation problem, operations shall cease until the problem is resolved or until control measures have been undertaken.

8) Except as allowed, specified or not prohibited in RGP 22 and this certification, erosion control, sediment control and/or bank protection measures shall be installed before construction and pre-operation activities, and shall be maintained during construction and post-construction periods to minimize channel or bank erosion, soil loss and sedimentation. Control measures shall not be constructed of uncemented or unconfined imported soil, or other materials easily transported by flow.

9) The applicant is responsible for ensuring construction material and/or fill (other than native fill or that necessary to support revegetation) placed within the OHWM of any WUS, shall not include materials that can cause or contribute to pollution of a surface water. Examples of prohibited fill include pollutant-contaminated soil and materials defined as pollutants or hazardous in A.R.S. § 49-201. Fill used to support vegetation rooting or growth shall be protected from erosion.

   - Any fill material washing must occur outside of the OHWM of any WUS prior to placement and the rinseate from such washing shall be contained and treated, or otherwise prevented from contributing sediment or causing erosion to any WUS. Other than replacement of native fill or material used to support vegetation rooting or growth, fill placed in locations subject to scour must resist washout whether such resistance is derived via particle size limits, presence of a binder, vegetation, or other armoring.

10) Any dredged material is to be placed and retained in areas outside the OHWM of any WUS. Runoff from this material/area is to be settled, filtered or otherwise treated to prevent migration of pollutants (including sediment) to any WUS.

11) Except as allowed, specified or not prohibited in RGP 22 and this certification, upon completion of construction the applicant shall ensure no adverse change due to the subject project has occurred in the stability (with respect to stream hydraulics, erosion and sedimentation) of any WUS including upstream and downstream from the project. If such

change has occurred, the applicant shall take steps to restore the pre-project stability of any impacted segments.

12) Denuded areas shall be revegetated as soon as possible. Vegetation shall be maintained on unarmored banks and slopes to stabilize soil and prevent erosion.

13) If retention/detention basins are included in a project, applicant will complete the grading necessary to direct runoff towards retention/detention basins no later than immediately following initial land clearing or rough grading.

- Retention/detention basins shall be sized to accept storm runoff and capture sediment prior to it entering any WUS. Detention basins will provide detention through the use of controlled outflow spillways and shall cause no significant change to the hydraulic conditions of the upstream or downstream WUS outside of the project boundaries.
- The basins shall be maintained; e.g., have sediment removed, as required to maintain their function.

14) Except as allowed, specified or not prohibited in RGP 22 and this certification, when flow is present in any WUS within the project area, the applicant and any contractor will not alter the flow by any means except to prevent erosion or pollution of any WUS.

15) Silt laden or turbid water resulting from activities certified herein shall be settled, filtered or otherwise treated to ensure no violation of Arizona WQS in any WUS.

16) When flow (including sheet flow or other surface runoff) in any WUS in the work area is sufficient to erode, carry or deposit material, activities certified herein shall cease until:

- the flow decreases below the point where sediment movement ceases, or
- until control measures (e.g., equipment and materials easily transported by flow are protected with non-erodible barriers or moved outside the flow area) have been undertaken.

Pollution Prevention

17) Work shall be conducted and monitored to ensure that pollution from the activities certified herein including, but not limited to: earthwork, concrete mixing and placement and equipment maintenance and washing does not cause an exceedence of Arizona WQS in any WUS.

18) Except as allowed, specified or not prohibited in RGP 22 and this certification, the applicant will erect any barriers, covers, shields and other protective devices as necessary to prevent any construction materials, equipment or contaminants/pollutants from falling, being thrown or otherwise entering any flowing WUS.

19) Upon completion of the activities certified herein (except as noted in condition 25 -concrete curing), areas within the OHWM of all WUS at the project site shall be promptly cleared of all forms, piling, construction residues, equipment, debris or other obstructions. Any debris including, but not limited to: soil, silt, sand, rubbish, cement, bituminous material, oil or petroleum products, organic materials, tires or batteries, derived from the activities certified herein shall not be stored at any site where it may be washed into a WUS and shall be properly disposed of after completion of the work.

20) The applicant must designate area(s) for equipment staging and storage located entirely outside of the OHWM of any WUS. Any equipment maintenance, washing or fueling that cannot be done offsite will be done in the designated area with the following exception: limited mobility equipment; e.g., large cranes, are allowed to be maintained and fueled within the OHWM if adequate measures are taken to prevent pollutants entering any WUS. The spill containment plan (condition 21) shall include this(these) area(s). Material specifically manufactured and sold as spill containment and adsorbent/absorbent will be on hand to control small spills. All equipment and workboats shall be inspected for leaks prior to use within the OHWM of any WUS. All leaks shall be repaired and all equipment and workboats will be cleaned (using steam or a pressure washer) to remove any fuel or other fluid residue prior to use in any WUS.

21) The applicant shall have a spill containment plan onsite to ensure that pollutants are prevented from entering any WUS. In addition, the applicant must designate areas, located entirely outside of the OHWM of any WUS, for chemical and petroleum storage, and solid waste containment. All materials stored onsite will be stored in appropriate containers or packaging. Any pollutant produced by activities certified herein shall be properly disposed of in accordance with applicable regulations. A spill response kit will be maintained in this (these) area(s) to mitigate any spills. The kit will include material specifically manufactured and sold as spill adsorbent/absorbent and spill containment. The applicant will ensure that whenever there is activity on the site, that there are personnel on site trained in the proper response to spills and the use of spill response equipment.

22) Except as allowed, specified or not prohibited in RGP 22 and this certification, permanent and temporary pipes and culverted crossings shall be adequately sized to handle expected flow and properly set with end section, splash pads, or headwalls that dissipate water energy to control erosion.

23) Temporary structures constructed of imported materials and all permanent structures, including but not limited to, access roadways, culverted and unculverted crossings, staging areas, material stockpiles, berms, dikes and pads shall be constructed so as to accommodate the overtopping of the fill by streamflow and fill must resist washout whether such resistance is derived via particle size limits, presence of a binder, vegetation, or other armoring.

- Temporary structures constructed of imported materials are to be removed no later than upon completion of the permitted activity.
- Temporary structures constructed of native materials, if they provide an obstacle to flow or can contribute to or cause sedimentation or erosion, are to be removed no later than upon completion of the permitted activity.

24) Acceptable construction materials that will or may contact water in any WUS are: crushed stone, native fill (meeting the requirements in condition 9), concrete (including soil cement and unmodified grouts), steel (including galvanized), plastic, or aluminum and other materials specifically approved in writing by ADEQ.

25) If fully, partially or occasionally submerged structures are constructed of cast-in-place concrete instead of pre-cast concrete, applicant will take steps; e.g., sheet piling or temporary dams (imported-material-filled cofferdams are not allowed), to prevent contact

between water (instream and runoff) and the concrete until it cures and until any curing agents have evaporated or otherwise cease to be available; i.e., are no longer a pollutant threat.

26) Any WUS crossings (bridges, culverts, etc.) shall not be equipped with gutters, drains, scuppers or other conveyances that allow untreated runoff (due to events equal to or lesser in magnitude than the design event for the crossing structure) to directly enter a WUS if such runoff can be directed to a stormwater drainage system.

Vegetation and Irrigation

27) For portions of a project utilizing potable water or groundwater for irrigation, direct runoff of irrigation water shall be limited to the extent practicable and shall not cause downstream erosion or flooding.

28) For portions of the project utilizing reclaimed wastewater for irrigation, direct runoff of irrigation water and overflow from retention/detention structures or storage impoundments into any WUS is prohibited without the proper permits including, but not limited to, Arizona's Reclaimed Wastewater Permit and, if within the wetted area of a 25-year flood event (or within the floodplain in some cases), an AZPDES permit.

ADEQ 401 Certification contact information:

Arizona Department of Environmental Quality
Surface Water Section / 401 Certifications / mailstop 5415A-1
1110 West Washington Street
Phoenix, Arizona 85007

Robert Scalamera
email: rs3@azdeq.gov
Voice: (602) 771-4502

Sincerely,

Linda Taunt, Deputy Director
Water Quality Division

electronic copies: U.S. Army Corps of Engineers, Regulatory Branch – Attn.: Sallie McGuire
USEPA, Wetlands Regulatory Office

California Regional Water Quality Control Board

Colorado River Basin Region

Linda S. Adams
Secretary for Environmental Protection

73-720 Fred Waring Drive, Suite 100, Palm Desert, California 92260
(760) 346-7491 • Fax (760) 341-6820
http://www.waterboards.ca.gov/coloradoriver

Arnold Schwarzenegger
Governor

April 12, 2010

Marjorie Blaine
U.S. Army Corps of Engineers
5205 E. Comanche Street
Tucson, AZ 85707

RE: ACTION ON REQUEST FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION FOR DISCHARGE OF DREDGED AND/OR FILL MATERIALS

PROJECT: Regional General Permit (RGP) 22 for the Restoration of Backwaters along the Colorado River

APPLICANT: U.S. Army Corps of Engineers

ACTION:

1. ☐ Order for Standard Certification
2. ☒ Order for Technically-Conditioned Certification
3. ☐ Order for Denial of Certification

STANDARD CONDITIONS:

The following standard conditions apply to all certification actions, except as noted above under Action 3 for denials.

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).

2. 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 23 CCR section 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

3. The validity of any non-denial certification action (Actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

Enclosure 3

4. 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 State law. For purposes of Clean Water Act (CWA) section 401(d), 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 Water Quality Certification (WQC).

   a. In response to a suspected violation of any condition of this WQC, the Regional Water Quality Control Board (Regional Water Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

   b. In response to any violation of the conditions of this WQC, the Regional Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.

ADDITIONAL CONDITIONS:

The following additional conditions apply to this certification:

1. The permittee shall notify the California Regional Water Quality Control Board - Colorado River Basin Region of all activities covered under this general permit. The notification must include a map of the area, a description of the activity as it pertains to the general permit, and an as-built which describes the final condition of the project after completion.

2. The permittee shall comply with all requirements of the California Porter-Cologne Water Quality Control Act.

REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:

If you have any questions, please contact Jay Mirpour, Water Resources Control Engineer, at (760) 776-8981 or jmirpour@waterboards.ca.gov.

WATER QUALITY CERTIFICATION:

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law.

Except insofar as may be modified by any preceding conditions, all certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the Regional Water Quality Control Board's Water Quality Control Plan (Basin Plan).

ROBERT PERDUE
Executive Officer

JJM/

cc: Mark Durham, U.S. Army Corps of Engineers, Los Angeles District Office
Bill Orme, SWRCB, Division of Water Quality, Water Quality Certification Unit
David Smith, U.S. Environmental Protection Agency, Region 9
Thomas A. Vandenberg, Office of Chief Counsel, SWRCB

File: 401 Certification, U.S. Army Corp of Engineers - RGP 22

Mailing List:

Mark Durham
Regulatory Branch
Los Angeles Office
U.S. Army Corps of Engineers
P.O. Box 532711
Los Angeles, CA 90053-2325

Bill Orme (*)
Water Quality Certification Unit
Division of Water Quality
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

David Smith
Wetlands Regulatory Office
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105

Thomas A. Vandenberg (*)
Staff Counsel
Office of Chief Counsel
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Note: (*) will e-mail electronic copy

PROJECT INFORMATION

Application Date: March 2010

Applicant: U.S. Army Corps of Engineers - Tucson Project Office, Regulatory Division, Public Notice/Application No.: SPL-1994-4015400-MB

Applicant Representative: Marjorie Blaine - Senior Project Manager/Biologist, (520)584-1684

Project Name: Regional General Permit (RGP) 22 for the Restoration of Backwaters along the Colorado River

Project Start and Completion: RGP is issued for a 5-year period (April 2010 - April 2015). Specific projects to be authorized by this RGP must be submitted to the U.S. Army Corps of Engineers in accordance with RGP requirements and may not begin until the Corps has verified the work complies with the RGP.

Project Description (purpose/goal): RGP 22 under Section 404 of the Clean Water Act and Section 10 of the River and Harbor Act of 1899 for the discharge of dredged and/or fill material resulting from wetland and aquatic habitat enhancement, restoration, and maintenance activities in the referenced locations. The basic work to be authorized under RGP22 will be:

(1) Reestablish meandering channel waterways feeding overgrown and sediment laden lakes and wetlands using mechanical means (dredging by hydraulic dredge and/or amphibious or "cookie cutter" excavators").

(2) Modify banklines and build islands using ground based excavation in order to create cattail/bulrush wetland fringe habitats and edges.

(3) Construct permeable water inlet structures and water control structures in existing training structures along levees and inlets between the backwaters and Colorado River.

(4) Maintenance dredge backwaters previously authorized and dredged under this RGP to originally authorized depths and profiles, and

(5) Perform revegetation activities by removing saltcedar and replacing it with native riparian tree species. For more information, see page 3 of this notice and attached drawings.

Project Location:	In backwaters along the Lower Colorado River from Davis Dam (RM 276) in Arizona to San Luis Rio Colorado (RM 0) bordering Sonora, Mexico and Arizona.
Receiving Water(s):	Colorado River
Fill/Excavation Area (acres):	Not available – reporting as activities occur
Dredge Volume (cy):	Not available – reporting as activities occur
Mitigation:	None
Federal Permit(s):	U.S. Army Corps of Engineers RGP 22
Status of CEQA:	This project is categorically exempt per 14 California Code of Regulation §15308 and §15333
Reference No.:	401 Certification, U.S. Army Corp of Engineers - Regional General Permit