



SPECIAL PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

BUILDING STRONG®

PROPOSAL TO REISSUE

**Regional General Permit 22 – Aquatic and Wetland Enhancement Activities,
Lower Colorado River**

Public Notice/Application No.: SPL-1994-4015400-MB

Project: Reissuance of RGP 22 for Aquatic and Wetland Enhancement Activities, Lower Colorado River

Comment Period: March 19, 2015 through April 2, 2015

Project Manager: William Miller; 602-230-6954; William.H.Miller@usace.army.mil

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.

Activity

To reissue Regional General Permit (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 pages 4-8 of this notice and attached drawings.

Interested parties are hereby notified an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). We invite you to review today's public notice and provide views on the proposed work. By providing substantive, site-specific comments to the Corps Regulatory Division, you provide information that supports the Corps' decision-making process. All comments received during the comment period become part of the

record and will be considered in the decision. This permit will be issued, issued with special conditions, or denied under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. Comments should be mailed to:

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
ATTN: Bill Miller
3636 N. Central Avenue, Suite 900
Phoenix, AZ 85012

Alternatively, comments can be sent electronically to: William.H.Miller@usace.army.mil

The mission of the U.S. Army Corps of Engineers Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable water and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem system functions and services.

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the

needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made an environmental impact statement is not required for the proposed work.

Water Quality- The Corps is seeking a programmatic Section 401 water quality certification from the appropriate agencies for this RGP. If the programmatic certification or waiver is not provided, the applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act from the following agencies: (1) U. S. Environmental Protection Agency (EPA) for work on Tribal lands, (2) the California State Water Resources Control Board (CSWRCB) for California, and/or (3) the Arizona Department of Environmental Quality (ADEQ) for Arizona. Section 401 requires any applicant for a Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance.

Coastal Zone Management- This project is located outside the coastal zone and preliminary review indicates it would not affect coastal zone resources. After a review of the comments received on this public notice and in consultation with the California Coastal Commission, the Corps will make a final determination of whether this project affects coastal zone resources after review of the comments received on this Public Notice. This is not applicable within the State of Arizona.

Essential Fish Habitat- No Essential Fish Habitat (EFH), as defined by the Magnuson-Stevens Fishery Conservation and Management Act, occurs within the project area and no EFH is affected by the proposed project.

Cultural Resources- Compliance with Section 106 of the National Historic Preservation Act (NHPA) (36 CFR 800) must be completed before any action may commence. Each Federal applicant shall be required to initiate and satisfactorily complete the process on their own. Any non-Federal applicant shall coordinate Section 106 compliance directly with the Corps.

Endangered Species- Any Federal project-specific prospective permittee shall be required to initiate and satisfactorily complete compliance under Section 7 of the Endangered Species Act with the U. S. Fish and Wildlife Service (FWS), Ecological Services (602)242-0210. Any non-Federal applicant shall coordinate Section 7 compliance directly with the Corps and shall be required to furnish a biological evaluation of the project and its impacts to threatened and endangered species and designated critical habitat. The Corps shall then determine if the specific project requires consultation under Section 7(c) and if so, shall initiate such consultation.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

Basic Project Purpose- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent (i.e., requires access or proximity to or siting within the special aquatic site to fulfill its basic purpose). Establishment of the basic project purpose is necessary only when the proposed activity would discharge dredged or fill material into a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). The basic project purpose for the proposed projects to be authorized under this RGP is the continued restoration and improvement of existing backwater/wetland habitats for fish, wildlife, and recreation. The projects are water dependent.

Overall Project Purpose- The overall project purpose serves as the basis for the Corps' 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose for the proposed projects to be authorized under this RGP is to restore, enhance, create, and maintain backwater habitats along the Lower Colorado River to provide higher quality habitat for fish and wildlife and to provide areas for passive recreation.

Additional Project Information

Baseline information- The original RGP was supported by the Backwaters Subcommittee of the Lower Colorado River Work Group. Work which was authorized and occurred under the originally issued RGP22 (issued March 10, 1995) has resulted in high value backwaters within the Lower Colorado River. Applicants eligible to obtain approval under this RGP are Federal, State, and local agencies; Indian tribes; and citizens' groups in cooperation with Arizona Game and Fish Department (AGFD) or California Department of Fish and Game (CDFG), and/or the FWS. The Bureau of Reclamation shall be the lead agency for the majority of the proposed backwater projects.

There are over four hundred backwaters/wetlands adjacent to the Lower Colorado River (LCR) below Davis Dam which are over one acre in size. Of these, at least 124 have previously been identified by the work group as suitable for aquatic and wetland enhancement projects. Several of the backwaters in the LCR were created in the 1960's by the Bureau of Reclamation as mitigation for fish and wildlife values lost to river channelization. Major floods have silted in the backwaters and exotic plant species have overgrown and replaced important wetlands.

Fish habitat will be enhanced by improving water quality and creating spawning habitat. Fish attraction devices, which may be permitted under nationwide permit 4, will also improve fish habitat. Restoration and improvement techniques will be dependent on the physical condition, size, and location of the backwaters/wetlands and management objectives developed and dictated by requirements of the Multi-Species Conservation Plan (MSCP). For example, individual backwater/wetlands may be developed for endangered/threatened fish and/or wildlife. Others may be developed for waterfowl, sport fishing, shorebirds, or a combination of each. The LCR is a navigable water of the U.S. based on a 1968 Corps navigability study and as defined in accordance with 33 CFR 329.

Project description- A permit is required for any discharges of dredged and/or fill material, and for structures and/or work associated with aquatic and wetland enhancement activities below the ordinary high water mark (OWHM) or in wetlands. Specific activities to be reauthorized under RGP22 include:

1. DREDGING OF CHANNEL OR BACKWATER WATERWAYS: 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 and/or to create new habitat for wildlife species that inhabit the lower Colorado River. To the extent practicable, channel depths will conform to dimensions which existed when created in the 1960's. Channel depths for newly created habitat areas will be dependent on channel geometry based on river operations and covered species requirements. 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. CREATION OF CATTAIL WETLAND FRINGE HABITATS: Creation of cattail/bulrush wetland fringe habitats and edges, to include the creation of new backwaters, channels, and wetlands, 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. PERMEABLE WATER INLET STRUCTURES AND WATER CONTROL STRUCTURES: Water inlet/outlet structures shall be constructed by either placing boulders or large rocks (permeable structures) in openings of levees, installing culverts (including water control structures), 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. MAINTENANCE DREDGING: 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. REVEGETATION ACTIVITIES: 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. New

project areas may be developed as conservation areas for which site specific restoration development and monitoring plans will be created to include a revegetation plan which complies with the requirements within this authorized activity.

Proposed Mitigation– Mitigation is not required under this RGP as activities authorized herein are self-mitigating (i.e. result in the restoration, enhancement, or creation of aquatic resources).

Proposed Special Conditions

The following list is comprised of proposed Permit Special Conditions, which are required of similar types of projects:

- a. Any permittee 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 permittee shall provide written plans and drawings to the U.S. Bureau of Reclamation (Reclamation) for review to ensure proposed projects will not impact the integrity of the Reclamation River Control Structures (e.g. levees and banklines). These plans shall be submitted to:

Mr. Christopher M. Wallis
Bureau of Reclamation, Yuma Area Office
7301 Calle Agua Salada
Yuma, AZ 85364
(928) 343-8215

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. Bill Knowles, 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 Reclamation, 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. Mary-Ellen Walsh
1300 W. Washington
Phoenix, AZ 85007

California Department of Parks/Recreation
State Historic Preservation Office
ATTN: Ms. Carol Roland-Nawi
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 and/or a restoration development and monitoring 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. The permittee shall comply with all conditions of any issued Section 401 water quality certification whether it is a programmatic certification for this RGP or an individual certification obtained by the permittee from the appropriate agency.
- 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 unless the permittee obtains clearances from the FWS and consults with the appropriate state wildlife agency and provides the clearance to the Corps with the application package.
- 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.

For additional information please call Marjorie Blaine of my staff at 520-584-1684 or via e-mail at Marjorie.E.Blaine@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.

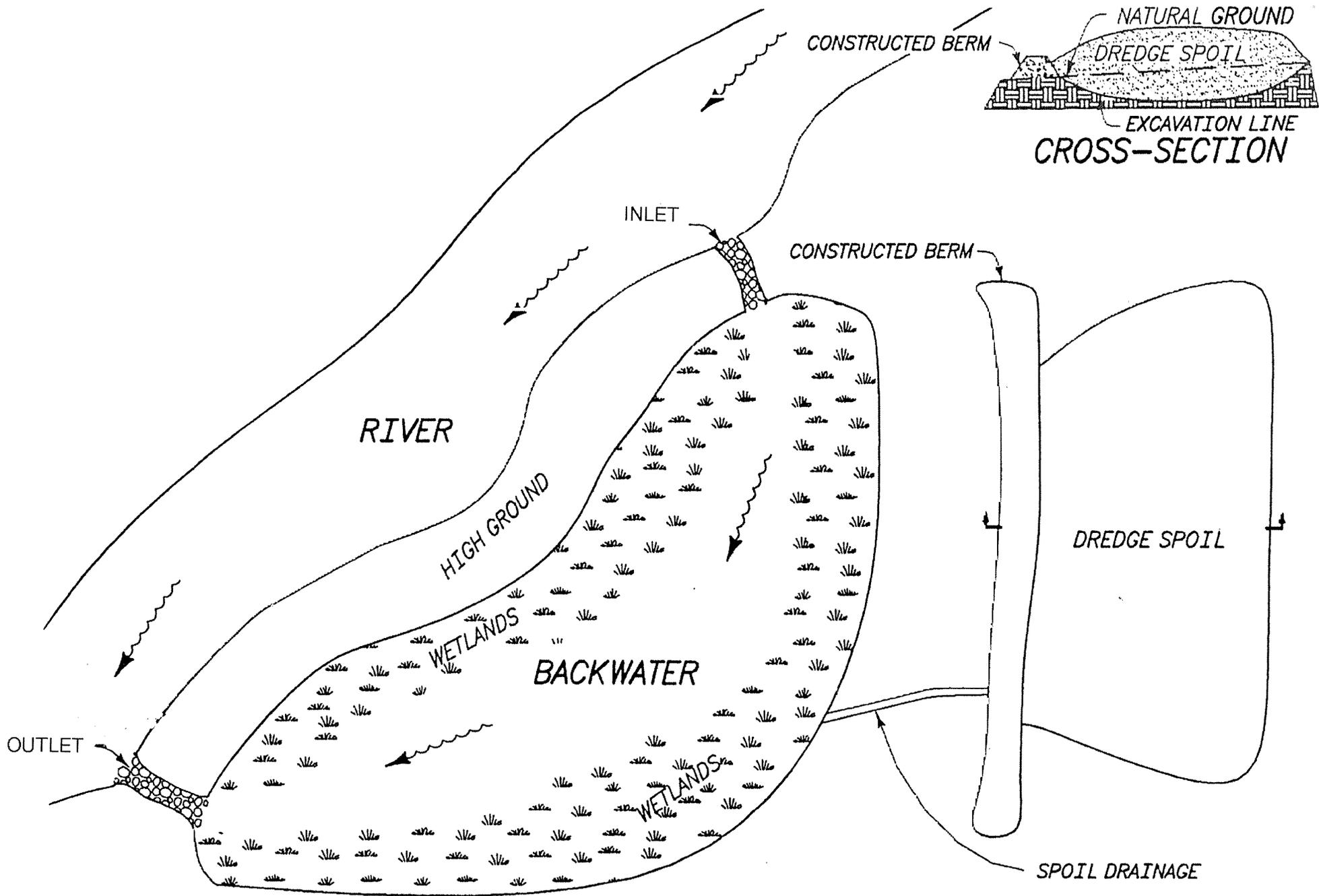


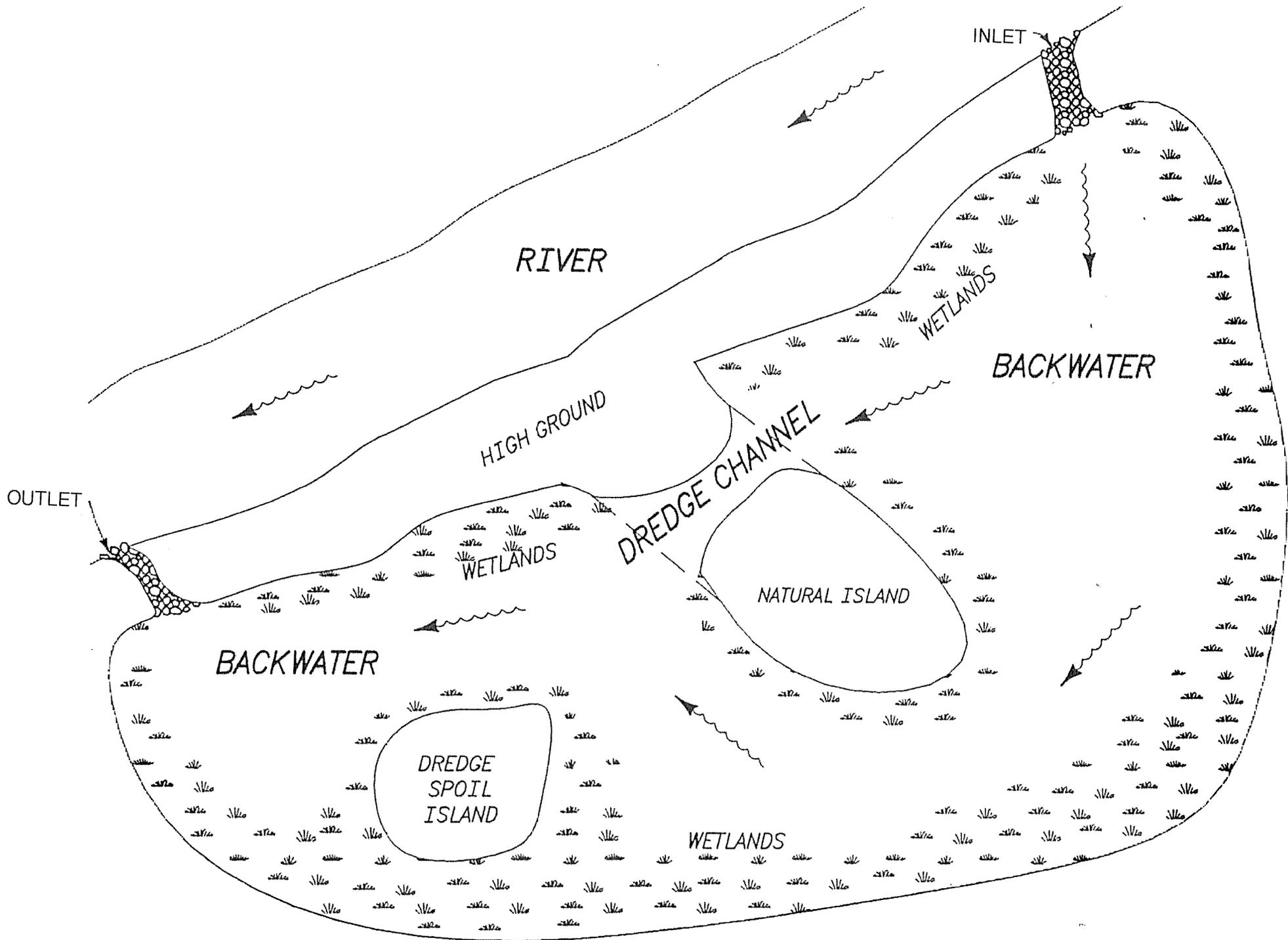
Regulatory Program Goals:

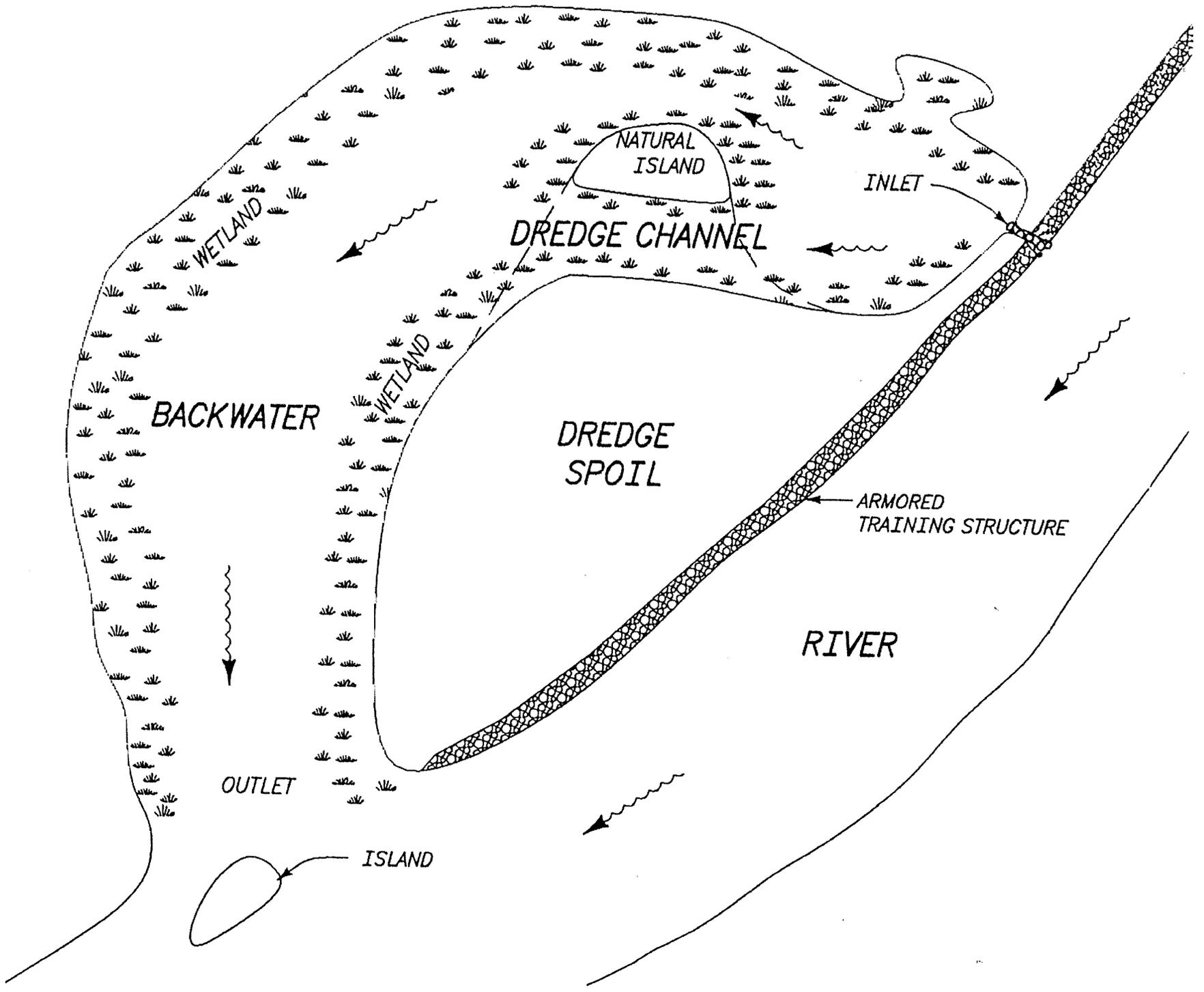
- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

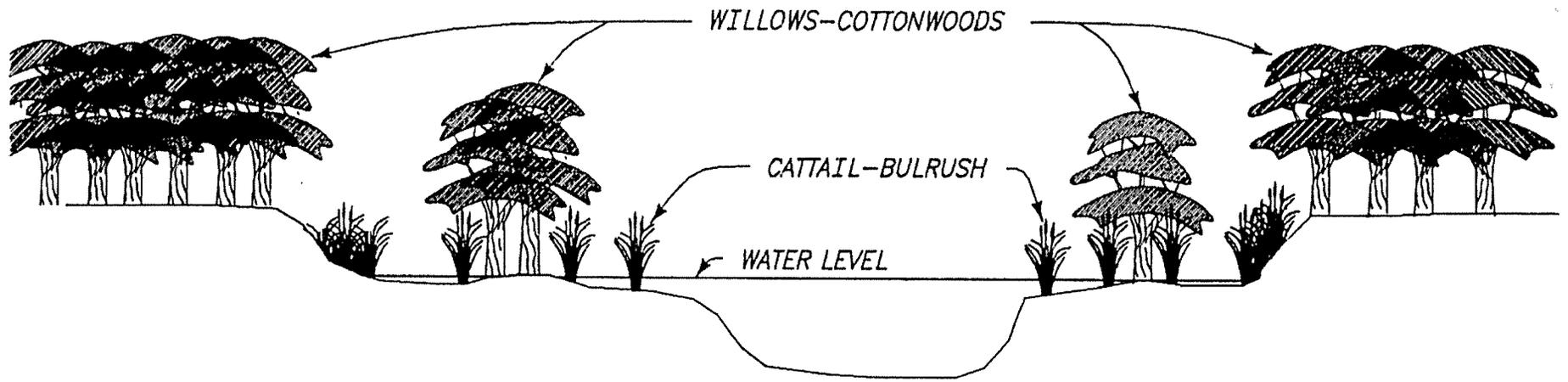
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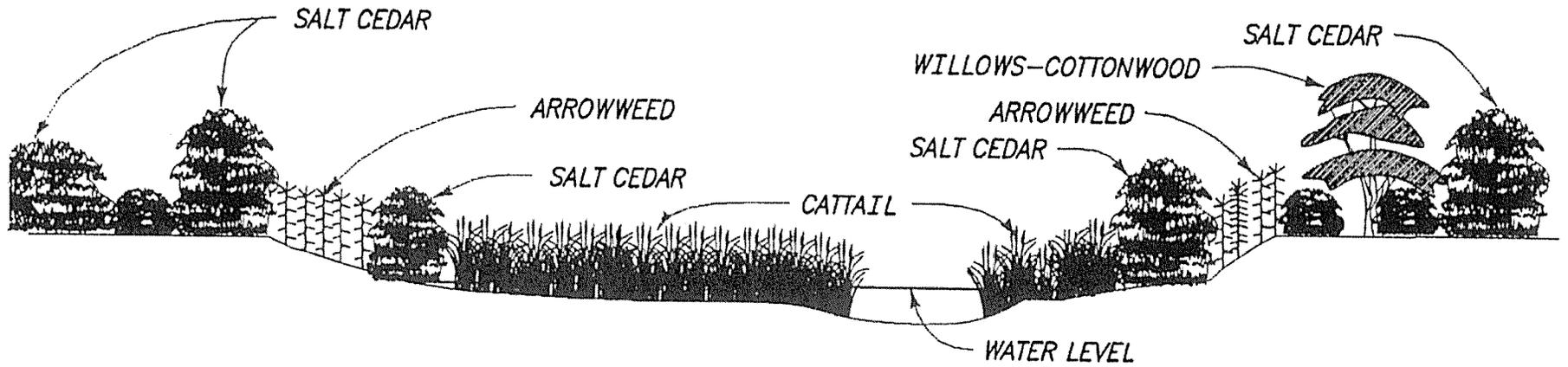






1 - HISTORICAL

(PRIOR TO 1964)



2 - EXISTING

