DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
PENSACOLA FIELD OFFICE
41 NORTH JEFFERSON STREET, SUITE 301
PENSACOLA, FLORIDA 32502-5794

REPLY TO
ATTENTION OF

6 September 2012

Regulatory Division
Pensacola Permits Section
SAJ-2011-02263 (IP-TSH)

Rec 9-11-12

Mr. Brona Steele, Director of Public Services
City of Crestview
715 North Ferdon Boulevard
Crestview, FL 32536

Dear Mr. Steele:

Reference is made to the Department of the Army application submitted on behalf of the City of Crestview. The proposed project is construction of a storm water management area (SWMA) that would impact 1.84 acres of wetlands. The project is located in unnamed wetlands northwest of the intersection of Shady Lane and Park Lane, Section 5, Township 3 North, Range 23 West, Crestview, Okaloosa County, Florida. The project has been assigned number SAJ-2011-02263 (IP-TSH).

In response to the public notice issued by the Corps, comments were received from the U.S. Environmental Protection Agency (EPA) by letter dated 24 July 2012. In addition to Corps comments, EPA comments are summarized below and a copy of the comments in their original context is enclosed with this letter. Please provide a written response to each of the following concerns and/or comments and provide updated exhibits for any project revisions:

1. The EPA stated that the proposed project does not comply with the Clean Water Act 404(b)(1) Guidelines and that insufficient information has been provided regarding the evaluation of alternatives and the steps taken to avoid, minimize and compensate for the proposed wetland impact. The Corps concurs that insufficient information has been provided to determine if the proposed project complies with the Clean Water Act 404(b)(1) Guidelines. The Corps requests that the following information be provided:

   a. The Corps acknowledges that a brief discussion of alternatives is provided on page 6 of the *Biological Narrative* submitted by Edmisten & Associates in support of the permit application. The Corps requests that a more detailed discussion of alternatives considered for this project be provided for the benefit of both the Corps and the EPA. Please describe any impacts to wetlands that may have been associated with alternatives considered for this project.

   b. Please discuss any measures taken to avoid and minimize impacts to waters of the United States, including wetlands, to accomplish the overall project purpose (storm water management, alleviation of flooding, etc.). Minimization measures might include

site selection, reduction of project size, site of project within the available parcel, etc. Please reference the *Final Region 4 Guidelines for Reconciling Storm Water Management and Water Quality and Resource Protection Issues* (6/23/04) included as an attachment to EPA's comments. Please reference section (2) *Storm water treatment works in areas where upland control alternatives are not available* on page 5 and discuss characteristics of the project that may qualify it as an "exceptional case".

2. The EPA also commented that the proposed compensatory mitigation, construction of the storm water management area, would not provide for no net loss of wetlands or in-kind wetland mitigation as required by the *Compensatory Mitigation for Losses of Aquatic Resources*, Final Rule. The EPA stated that "Even though the installation of a storm water management area may provide some level of water quality improvements to the Red Wash Branch and Yellow River, this benefit does not release the applicant from their mitigation requirements for unavoidable adverse impacts to wetlands. The EPA recommends that a mitigation plan be created and incorporated into this project…". The Corps concurs with EPA's comments and requests that a compensatory mitigation plan that fully offsets the proposed wetland impact be submitted for review. The compensatory mitigation plan should be located within the same watershed (Yellow River / HUC 03140103) as the proposed wetland impact and should provide in-kind mitigation.

3. The Corps concurs with the assessment of functional loss determined by Edmisten & Associates utilizing the Uniform Mitigation Assessment Method (UMAM); a loss of 1.04 functional units for the proposed 1.84 acre wetland impact was determined. However, the Corps does not concur that construction of the storm water management area would provide compensatory mitigation for the proposed wetland impact. In addition to the reasoning provided in the *Final Region 4 Guidelines for Reconciling Storm Water Management and Water Quality and Resource Protection Issues*, the Corps believes that any potential benefit would be to downstream wetlands/waters, rather than the 65 acre upland service area of the SWMA. The Corps notes that the *Biological Narrative* states that "…it is fitting to calculate the ecological functions provided by the facility to <u>down-gradient</u> aquatic ecosystem" and then discusses assignment of ecological lift to the 65 acre service area. The 65 acre service area is depicted by construction drawing sheet 10 of 18, drawing number 5053-10, and consists primarily of residential areas located up-gradient of the proposed SWMA. As such, the Corps does not agree that any benefits to the 65 acre service area provided by the SWMA would replace wetland functions that would be lost as a result of the project. In other words, the 65 acre service area would not be providing wetland functions, so it would not create an ecological lift. When sufficiently inundated, the existing wetlands drain through a series of drain pipes and discharge into Red Wash Branch. The project description in the *Shady Lane Drainage Project / Stormwater Management Narrative and Calculations* (10/19/2011) indicates that the drain pipes between Park Lane and Jones Road would be demolished and that overflows from the proposed SWMA would be routed to a discharge area at the end of Gil Ava Street, which is maintained by the City of Crestview. From a review of aerial photography, it appears that these overflows would eventually drain to Red Wash Branch. Therefore, it appears that both the existing and proposed conditions provide for intermittent discharges to Red Wash Branch. As both the existing and proposed conditions would discharge to the downstream waters during peak flows, it is not apparent that the proposed SWMA would provide a benefit to the downstream waters. In consideration of the above, the Corps does not agree that the proposed SWMA is appropriate as a form of compensatory mitigation. Any offsite compensatory mitigation should provide offset for the entire functional loss of 1.04 units for the proposed project.

Overall, it is the Corps' position that a more detailed alternatives analysis be provided; that appropriate avoidance and minimization of wetland impacts be demonstrated or additional information be provided demonstrating that the project is an "exceptional case" as described by the *Final Region 4 Guidelines for Reconciling Storm Water Management and Water Quality and Resource Protection Issues*; and that for all unavoidable wetland impacts, offsite, in-kind, compensatory mitigation, located within the Yellow River watershed (HUC 03140103), be provided to offset all functional loss of wetlands associated with the proposed project. Please provide exhibits/drawings for any offsite mitigation plan or project revisions.

The above information must be provided for the Corps to complete the public interest review. Any other information you believe may be helpful in order to justify the project should also be submitted at this time. Further evaluation of your application will be held in abeyance for 45 days pending receipt of your response. If no response is received within this time frame, the application will either be considered withdrawn or a final decision will be made. A response should include all information needed to complete the public interest evaluation.

If you have any questions regarding this letter, please contact Shayne Hayes at the letterhead address, via e-mail at *terry.s.hayes@usace.army.mil*, or by phone at 850-433-8859.

Sincerely,

Clif Payne, Chief
Pensacola Permits Section

Enclosures

Copy furnished:
Mr. Glen Miley, Edmisten & Associates, consultant