

15 August 2007

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Record of Decision for the Final Environmental Impact Statement for the Relocation of the Panama City – Bay County International Airport and Statement of Finding for Above-Numbered Department of the Army Permit Application.

1. Applicant: Panama City – Bay County International Airport and Industrial District
c/o Mr. Joe Tannehill, Chairman
3173 Airport Road, Box A
Panama City, Florida 32407

2. Location, Existing Site Conditions, Project Description, Changes to Project:

a. Location: The proposed project site is located within a 4,037-acre parcel, which includes wetlands, which are contiguous, and/or adjacent to Burnt Mill Creek and Crooked Creek both of which drain into West Bay, in Sections 1, 2, 11, 12 & 13, Township 02 South, Range 16 West; Sections 3, 4, 5, 6, 7 & 8, Township 02 South, Range 15 West; Sections 17, 19, 20, 21, 26, 27, 28, 29, 30, 31, 32, 33, 34 & 35, Township 01 South, Range 15 West; and Sections 23, 24, 25, 26, 35 & 36, Township 01 South, Range 16 West; Bay County, Florida.

b. Existing Site Conditions: The proposed relocation project site is comprised of 4,037 acres, including a right-of-way for an access road between the proposed airport facility and County Road 388 (CR388). Of the 4,037 acres, approximately 1,915.4 acres (approximately 47% of the project site) are wetlands or other waters of the United States under the regulatory jurisdiction of the Corps. Approximately 20.6 acres of wetlands are isolated and not under Corps jurisdiction. All of the jurisdictional wetlands on the site are adjacent, or adjacent and contiguous, to two major creek systems, which drain the site. These creeks are Burnt Mill Creek to the east of the site, and Crooked Creek to the west of the site, both of which drain into West Bay. Three named creek branches, Bell Bay, Bear Bay and Kelly Branch, are located within the western part of the site and flow into Crooked Creek. The majority of the site, including a significant portion of the onsite wetlands, has been impacted by past silvicultural activities. The majority of the impacted wetlands were former wet pine flatwoods communities with seasonal ponds, wet depressions, bayheads, cypress ponds, bogs and titi swamps interspersed among the flatwoods. Remaining wetlands not directly impacted by the planting of pines include mixed forested wetlands, cypress swamps, and titi swamps. Detailed information regarding the condition of the human, physical and natural environment of the proposed relocation site (i.e., the West Bay Site) is provided in the *Final Environmental Impact Statement, Proposed Relocation of the Panama City – Bay*

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County International Airport, May 2006 (FEIS)(Vol. I, Ch. 4, Affected Environment).

c. Project Description at Time of Public Notice:

CONCEPTUAL PERMIT: The applicant proposes to directly impact 1,513 acres of jurisdictional wetlands and 17 acres of non-jurisdictional wetlands of the 1,936 acres of jurisdictional and non-jurisdictional wetlands on the 4,037-acre airport relocation site within a 50-year period for a conceptual, multi-phased airport facility. The project site includes the proposed airport relocation site and a proposed access road from CR388 to the relocation site. The proposed ultimate components of the relocated airport facility, as currently identified, would include the proposed components, as described below in the "Phase 1 Construction Authorization" section, plus: 1) extension of the primary air carrier runway to 12,000-foot with taxiways, aprons and clear zones, 2) construction of a parallel 8,400-foot air carrier runway with taxiways, aprons and clear zones, 3) expansion of the commercial passenger terminal and a new commercial passenger terminal, 4) associated development, including general aviation, commercial, and aviation related industrial developments, 5) additional storm water management facilities, 6) additional vehicular parking, 7) and a replacement air traffic control tower. The applicant also proposes a Wildlife Management Program (WMP) to provide guidance in the development and operation of the new facility to minimize damaging bird and wildlife strikes to aircraft. Under the WMP, the applicant may conclude that hazards caused by birds and wildlife associated with wetlands, can only be eliminated by the removal of a particular wetland area within the 4,037-acre site. The U.S. Army Corps of Engineers (Corps) shall disclose and evaluate in general terms the ultimate proposed project within the framework of a conceptual permit, which would cover a 50-year period, if issued. The Corps would evaluate in detail, individual construction phases, as they are proposed by the applicant, over the life of the conceptual permit, including any regulated impacts to wetlands sought by the applicant under the WMP. Only the initial Phase 1 (i.e., through the year 2018) portion of the project is provided in sufficient detail to evaluate for authorization for construction under the conceptual permit. Authorization for the construction of subsequent phases, as modifications to the conceptual permit, would require substantial additional detail, additional National Environmental Policy Act (NEPA) review, either as supplemental Environmental Impact Statements (EIS's) or Environmental Assessments (EAs), as well as review under the Clean Water Act (CWA) and other appropriate federal statutes and regulations. Review of the individual construction phases would include evaluation for minimization of impacts to the aquatic environment and mitigation. The conceptual permit could allow the applicant's proposed mitigation plan for the ultimate proposed project to be implemented, before approval of the individual construction phases.

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PHASE 1 CONSTRUCTION AUTHORIZATION: The applicant proposes to directly impact all 596.0 acres of wetlands (including 9 acres of isolated, non-jurisdictional wetlands) within a 1,381-acre portion of the 4,037-acre site for the construction of Phase 1 of the proposed relocation of the Panama City-Bay County International Airport (PFN), including an access road from CR388 to the relocation site. The proposed components for Phase 1 would include: 1) a 8,400-foot air carrier primary runway with a 5,000-foot crosswind runway, 2) airside and landside facilities to support runway operations, including taxiways, aprons and clear zones, 3) an air traffic control tower and support facilities, 4) commercial passenger terminal, 5) vehicular access roads and parking, 6) airport entrance drive and airport roadway system, 7) rental car service facilities and staging areas, 8) fuel storage facilities, 9) aircraft rescue and firefighting facility, 10) public safety facilities, 11) maintenance facilities, 12) wastewater collection, treatment and disposal facilities, 13) potable water treatment, storage and distribution system, 14) associated commercial support facilities, 15) aircraft storage hangars, 16) air cargo facilities, 17) storm water management facilities, and 18) airfield lighting vault. Jurisdictional and non-jurisdictional wetlands that would be impacted by construction of Phase 1 include 292.3 acres of hydric pine plantation, 66.9 acres of titi swamps, 70.8 acres of cypress swamps, 160.9 acres of mixed wetland forests, and 5.1 acres of freshwater marsh/vegetated non-forested wetlands.

PROPOSED MITIGATION: The applicant has offered compensatory mitigation for consideration, if it is determined that issuance of a permit is appropriate. The mitigation plan addresses compensatory mitigation for impacts to wetlands and other waters associated with the entire proposed 50-year project. The three mitigation areas are comprised of 9,858 acres dominated by planted pine wetlands and uplands with areas of titi swamps, mixed forested wetlands, cypress swamps, pine flatwoods, freshwater marsh/shrub wetlands, tidal marsh, and small streams. The main goals of the mitigation plan would be to preserve the mitigation areas and to restore and enhance planted pine areas to wet pine flatwoods, wet pine savanna, mesic flatwoods and sandhill habitat that historically occurred in the area. Restoration and enhancement would also take place in the other onsite habitats as well.

d. Changes to Project:

(1) The original Section 404 permit application proposed 1,936 acres of wetland impact within a 25-year authorization for the airport project at full build-out, including an access road from CR388. Initially, in an attempt to comply with FAA Circular Advisory 150/5200-33, *Hazardous Wildlife Attractants on or near Airports*, the applicant proposed to fill all wetlands within the project boundary. Discussions during the Florida Department of Environmental Protection's (FDEP) Ecosystem Team Permitting (ETP)

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process for this project, in which the Corps participated, led to changes in the conceptual project. A phased construction approach and a decrease of proposed wetland impacts by approximately 254 acres of wetlands for the entire conceptual project, was introduced by the applicant during the ETP process. Six ten-year construction phases were proposed ranging from the initial phase (0 to 10 years) to beyond 50 years. Further ETP discussions led to the elimination of the sixth phase from the proposed project, reducing proposed wetland impacts by approximately 152 additional acres. Wetlands removed from the proposed project area included high quality portions of several stream and flowing wetland systems located between the proposed airport site and Crooked Creek. Overall, by the time of publication of the public notice, the project had been redesigned as described in Section 2.c above. The noticed conceptual project represents a 21% reduction from the proposed wetland impacts presented in the original permit application. The proposed impacts in wetlands for the Phase 1 project remain the same.

(2) Subsequent to issuance of the public notice the following changes to the project were made:

(a) Due to the presence of various utility easements and roads within the boundaries of the proposed mitigation parcels, the actual number of acres subject to the proposed mitigation plan was reduced from approximately 9,858 acres to approximately 9,609 acres. However, these easements and roads, had not been included in the portions of the mitigation parcels, which were to be restored or enhanced, and thus did not significantly change the outcome of the Wetland Rapid Analysis Procedure (WRAP) analysis of the proposed mitigation.

(b) The proposed WMP was modified (*Wildlife Management Program, Panama City - Bay County International Airport Relocation - September 2006*) to state that authorization from the Corps would be required for any additional, regulated impacts to onsite wetlands, proposed by the applicant in order to minimize damaging bird and wildlife strikes to aircraft. Wetlands, which are not authorized for direct impacts pursuant to a permit, if issued, would be preserved; but may continue to be managed through standard forest management operations and forestry Best Management Practices (BMPs), as has been practiced by The St. Joe Company (St. Joe) on the site. Wetland hardwoods and cypress would not be harvested for timber or other solely commercial purposes.

(c) Minor adjustments were made by the applicant to the Phase 1 boundary and to the configuration of some of the components of the Phase 1 project, as evidenced by revised, up-to-date project drawings, which were submitted subsequent to

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the issuance of the FDEP's Ecosystem Management Agreement (EMA). These revised drawings reflected more detailed design information and subsequent minor changes, compared to that available at the time of the issuance of the public notice. The Phase 1 project area decreased from 1381 acres to 1368.9 acres. The area of wetlands that would be impacted by the project remained almost the same by decreasing only 0.8 acres from 596.0 to 595.2 acres of direct wetland impacts.

3. Project Purpose: A discussion of the development of the purpose and need for this project for the Corps' evaluation of the proposed project is provided in the FEIS (Vol. I, Sections 2.5.3 and 3.11.1).

a. Basic: Development of commercial and civil air transportation facilities.

b. Overall: Development of air transportation facilities, which would meet Federal Aviation Administration (FAA) safety and design standards, which could operate and grow to allow future opportunities for expansion of air transportation services, including international charter operations, and which would be compatible with local and regional planning efforts within the region centered in Bay County, Florida.

4. Scope of Analysis: By email sent to the FAA's project manager dated May 20, 2002 the Corps agreed to participate as a cooperating agency in the preparation of an Environmental Impact Statement (EIS) for the proposed project with the FAA as lead agency. The Corps agreed to participate as a cooperating agency, because the proposed project could have potential, significant impacts to waters of the United States, including wetlands, if the applicant's proposed project were implemented. The permit area includes the 4,037-acre proposed airport relocation site, and three mitigation parcels, which total approximately 9,609 acres. The relocation site is comprised of a complex mosaic of wetlands, uplands, and small tributary streams, which make the site virtually undevelopable without some degree of regulated impact to wetlands and other waters of the United States. The waters and wetlands located within the permit area are either adjacent to West Bay or drain into and are contiguous to West Bay via Burnt Mill Creek, Crooked Creek or other small streams and drains. The proposed project is an airport, for which there is considerable federal oversight and involvement in terms of review, approval and funding of planning, design, construction and operations. The extent of federal control and responsibility for this project through the Corps' regulatory program would include authorities under Section 404 of the CWA, the Endangered Species Act (ESA), the Fish and Wildlife Coordination Act (FWCA), the National Historic Preservation Act and the Magnuson-Steven Fishery Conservation and Management Act. The scope of analysis, and thus the permit area, for direct project impacts would include the proposed relocation site, access road, and the three

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proposed mitigation parcels. The scope of analysis, and thus the action area for the ESA, would include the proposed relocation site, access road, and the three proposed mitigation parcels (U.S. Fish and Wildlife Service's (FWS) biological opinion (BO), dated October 3, 2005 (FEIS, Vol. II, App. T, p. 4)). The scope of analysis, and thus the action areas, for indirect (secondary) and cumulative impacts on wetlands, water quality, floodplains, biotic communities, listed species and the physical and human environment are described in the FEIS (Vol. I, Section 5.26).

5. Statutory Authority: Section 404 of the Clean Water Act of 1972, as amended.

6. Other Federal, State, and Local Authorizations Obtained or Required and Pending:

a. State water quality certification (WQC): On December 1, 2006, the FDEP issued an EMA, entitled *Ecosystem Management Agreement and Other Related Permits* with the Panama City – Bay County International Airport. The EMA included a Wetland Resource Permit for the entire, multi-phase, 50-year project. The permit/certification number is 03-0212186-004-DF.

b. Coastal Zone Management (CZM) consistency/permit: Issuance of the FDEP permit certifies that the project is consistent with the CZM plan.

c. Other authorizations: A list of actions requested of the FAA is provided in the FEIS (Vol. I, Section 2.6.1). A list of federal, state and local permits and approvals other than those for the FAA and the Corps, is provided in the FEIS (Vol. I, Section 2.6.3).

7. Project Background, Adoption of FEIS and FAA's Record of Decision (ROD), General Chronology, Date of Public Notice and Summary of Comments:

a. Project Background (Applicant and Current Landowner, Environmental Impact Statement and FDEP Ecosystem Team Permitting):

The Panama City – Bay County Airport and Industrial District is the permit applicant for the proposed project and the operator of the existing airport. St. Joe currently owns the proposed project site and would donate these lands for a relocated airport, if permitted. St. Joe would also provide lands for use by the applicant for mitigation purposes, if a permit were issued.

On November 7, 2001 the FAA published in the *Federal Register* a Notice of Intent to prepare an Environmental Assessment to consider alternatives to meet forecast growth in aviation demand in the Panama City-Bay County region and to

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respond to the Panama City – Bay County Airport and Industrial District's proposal to relocate airport operations from the existing location to the applicant's preferred site north of West Bay in Bay County, Florida. The FAA held agency and public scoping meetings on December 13, 2001. Following a review of written comments submitted by federal, state, and local governmental agencies and the public, and a review of available information regarding the potential for significant environmental impacts, including impacts to wetlands, the FAA determined that an EIS would be prepared for the project.

The primary purpose of an EIS is to ensure that the policies and goals of NEPA are considered in ongoing programs and actions by the federal government. An EIS provides a full and fair discussion of significant environmental impacts, and informs decision-makers and the public of reasonable alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment. On April 26, 2002 the FAA issued a *Federal Register* notice announcing its intent to prepare an EIS.

By letter dated April 26, 2002 the FAA requested that the Corps participate in the EIS as a cooperating agency. The FAA is the lead agency for the EIS. The Corps agreed to the request on May 20, 2002.

In July 2002 the FDEP and the applicant requested that the Corps participate in the FDEP's ETP process for the proposed relocation of PFN to the West Bay Site. The Corps began participation in the ETP process with the second meeting of the ETP team in December 2002. Although the Corps agreed to participate in the ETP process, participation by the Corps was secondary to the Corps' responsibilities under NEPA, the Clean Water Act (CWA), and other federal statutes and regulations. The Corps used the ETP process as a forum to discuss and review with other federal and state agencies, the applicant, and the applicant's consultants and agents, proposed project impacts on the environment, particularly impacts to waters of the United States, including wetlands.

On February 21, 2003 a Department of the Army permit application was received from the applicant, which requested a 25-year permit to fill 1,929 acres of wetlands in three phases for the development of the entire proposed site at West Bay for a new regional airport to replace the existing PFN facility. Subsequent to the submittal of the original permit application, the applicant modified the proposed project's impacts to wetlands, phasing and timeline.

The FAA held an agency meeting for the EIS on May 1, 2003 and a public information meeting on May 13, 2003. On November 26, 2004 the FAA issued a Draft

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EIS (DEIS), which described in detail the initial development components of the proposed relocated airport through the year 2018, which would consist of an airfield and terminal facilities, a primary runway of 8,400 feet, and a general aviation crosswind runway of 5,000 feet. The DEIS disclosed for informational purposes the ultimate development of the site, which would depend upon aviation growth in the Panama City vicinity and the applicant's needs. The applicant identified five phases for the ultimate development of the proposed relocation site within a 50-year timeframe, during which the airport's initial facilities could be expanded to include an extension of the primary air carrier runway, a second parallel air carrier runway, and additional landside facilities. Comments received during the DEIS comment period were collected and compiled by the FAA for review by the FAA and Corps. The FAA and the Corps fully considered the comments. Responses to these comments are included in the FEIS (Vols. III, IV & V).

On December 8, 2004 the Corps issued a public notice to inform the public that a public information workshop and public hearing on the DEIS would be held by the FAA, as lead agency, and the Corps, as a cooperating agency, on January 11, 2005 in Panama City, Florida. The public notice disclosed that the Corps had received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act for the proposed relocation project, and that a separate public notice would be published specifically pursuant to the Corps' evaluation of the permit application.

On January 11, 2005 the FAA's and the Corps' co-sponsored public information meeting and public hearing were held. The proceedings of the public hearing and verbal comments from the public, which were recorded by court reporters, and written comments collected at the hearing, were compiled by the FAA for review by the FAA and Corps. The FAA and the Corps fully considered the comments received at the public hearing. The responses to these comments are included in the FEIS (Vols. III, IV and V).

In October 2005 while the FEIS was being prepared, the applicant distributed a Request for Proposal to Purchase (RFP) the existing PFN site in the event that the proposed relocation project were approved (FEIS, Vol. I, Section 2.2.3). Issuance of the RFP corresponded with publication of the *Background Analysis and Master Planning Report for Redevelopment* (Report) (FEIS, Vol. II, Appendix V). The RFP and Report were made available to potential buyers of the existing site and provided information regarding the airport relocation project and the existing site. The Report also provided three hypothetical, conceptual master plans for review by potential buyers. The Report explicitly stated that these plans had not been submitted to any review agencies or jurisdictions for review or action. As of the date of this Record of Decision/Statement of Findings (RODSOF), the Corps has not received an application for any proposed work

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associated with redevelopment of the existing PFN site.

On May 12, 2006 A Notice of Availability of the FEIS was published in the Federal Register with a comment period from May 19, 2006 through July 5, 2006. The notice stated that the Corps is a cooperating agency for the FEIS, and directed that all comments should be submitted to the FAA.

Comments received during the FEIS comment period were collected and compiled by the FAA for review by the FAA and Corps. The FAA and the Corps fully considered these comments. The FAA and the Corps responses to these comments are included in the FAA's ROD (FAA ROD, Appendix B), which was issued on September 15, 2006.

On November 13, 2006 the Natural Resources Defense Council, Inc., Defenders of Wildlife, Inc., and the Friends of PFN, Inc., filed a Petition for Review against the FAA, requesting that the U.S. Court of Appeals for the Second Circuit review the FAA's ROD. The plaintiffs claimed the proposed airport relocation project would harm aquatic resources and wildlife used and enjoyed for recreation and other purposes by their members, and members would have to travel farther distances to use airport facilities.

b. Adoption of the FEIS and FAA's ROD:

(1) Only the initial Phase 1 (i.e., through the year 2018) portion of the project is provided in sufficient detail to evaluate for authorization for construction under the proposed 50-year permit. The Phase 1 project is a "stand alone" component of the more speculative, multi-phase, conceptual 50-year project, and is not dependent on those future, proposed phases to operate. Authorization for the construction of subsequent phases, as modifications to the permit, would require substantial additional detail, additional NEPA review, either as supplemental EIS's or EAs, as well as review under CWA and other appropriate federal statutes and regulations. Review of the individual construction phases would include evaluation for minimization of impacts to the aquatic environment and mitigation. The 50-year permit would allow the applicant's proposed mitigation plan for the speculative, multi-phase, conceptual proposed project to be implemented, before approval of the individual construction phases. Information in the FEIS concerning ultimate development of the site could be the basis for subsequent NEPA documents. In compliance with NEPA, succeeding environmental documents evaluating future airport proposals could tier off the FEIS.

(2) The Corps, as a cooperating agency with the FAA as lead agency in the development of the FEIS for this project, has reviewed and generally concurs with the

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FEIS and the FAA's ROD. The Corps adopts the FEIS and the FAA's ROD, as supporting documentation for this RODSOF.

c. Important dates for Section 404 permit application: The Corps received the Section 404 permit application on February 21, 2003. The Corps initially reviewed the application on February 24, 2003. The Corps provided written initial comments and information requests to the applicant and the applicant's agents at the ETP Small Circle meeting on February 27, 2003. On March 3, 2003, the Corps sent a letter to the applicant stating that the application is considered incomplete pending the publication of a DEIS, that additional information may be required during the EIS process, and that the Corps was participating in the ETP process with the FDEP and applicant. Subsequent to the submittal of the original permit application, the applicant modified the proposed project's impacts to wetlands, phasing and timeline. The DEIS was released on November 26, 2004. Additional requests to the applicant for additional information in order to publish a public notice were made by the Corps through email in February, March and April, 2005. The Corps considered the application complete for the publication of a public notice on April 18, 2005. The Corps issued a public notice on April 25, 2005 and sent this notice to all interested parties including appropriate State and Federal agencies. However, the public notice incorrectly stated that preliminary review of the application indicated that an EIS would not be required. A corrected public notice was issued on May 2, 2005 and sent to all interested parties including appropriate State and Federal agencies. The public notice stated that preliminary review of the application indicated that an EIS would be required.

d. Public notice comments: The Corps has reviewed all of the comments submitted in response to the circulation of the public notice. The Corps has summarized these comments below:

(1) U.S. Environmental Protection Agency (EPA): A response to the public notice was not received from the EPA. However, in its response to the publication of the FEIS, the EPA stated that, "final wetland compensation for the initial development phase for this project will be identified through the Corps public notice process for the Section 404 individual permit, and that the EPA expects to provide additional review and comment during the process." On July 21, 2006 in an email response to inquiries from the Corps project manager regarding the issuance of the public notice and the above comment, the EPA Region 4 Program Office acknowledged that "the project's conceptual and (presumed) individual Section 404 permits were jointly noticed by the COE in May 2005." Regarding interest on the part of EPA to review the draft mitigation plan, the EPA Region 4 NEPA Program Office stated that they understood from the EPA Region 4 Wetlands Branch that no additional comments would be offered at this

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time regarding the proposed mitigation plan. The EPA's Wetland Branch confirmed to the Corps by email dated July 28, 2006, that the Branch would have no additional comments regarding the proposed Panama City Airport Relocation project or mitigation plan, other than statements made by an EPA staff member, while attending any of the ETP meetings. A review on August 16, 2006 by the Corps project manager of the minutes of all ETP meetings, as posted on the applicant's web site for this project, showed that the EPA staff member had attended two of the meetings, but no comments in reference to the proposed project by the EPA staff member were reported.

(2) U.S. Fish and Wildlife Service (FWS): The FWS responded to the public notice by letter dated May 25, 2005 and provided comments under NEPA, FWCA and ESA. In regards to NEPA the FWS anticipated further coordination with FAA and the Corps in the development of an EIS following completion of a biological assessment (BA) for the project. The FWS referenced an attached letter dated January 27, 2005, which was sent to the FAA by the FWS and stated FWS concerns and questions regarding the DEIS. FWS' comments regarding the DEIS were addressed in the FEIS (Vol. III).

In regards to the FWCA the FWS stated that indirect impacts to watersheds of Burnt Mill and Crooked Creek were of primary concern, but that the FWS agrees with the goals, objectives and management concepts described in the mitigation plan. However, the FWS had concerns that the plan: (1) Is not clear what provisions would allow for changes in the mitigation plan if future phases of the project are not constructed, (2) perpetual management of such a large area will require a significant funding source and commitment; and therefore, (3) strongly recommend the applicant provide a cost analysis and financial assurances that the mitigation will be successful.

In regards to the ESA, the FWS stated that the FWS is continuing to provide technical assistance for consultation to the FAA's consultants, that the FWS understands that a draft BA would be provided prior to completion of the FEIS, and that they anticipated that the Corps would be able to use the BA to make an ESA determination for the 404 permit action.

The FWS summarized that while it concurs with many of the principles of the project plans, that they recommend abeyance of a permit decision, pending receipt of additional information and completion of ESA Section 7 consultation. FWS advised that under the procedural requirements of the 1992 404(q) Memorandum of Agreement (MOA), Part IV, 3(A), that the proposed work may affect aquatic resources of national importance.

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(3) National Marine Fisheries Service (NMFS): NMFS responded to the public notice by an email dated May 24, 2005 with an attached electronic copy of a letter dated January 19, 2005, which had been sent by the NMFS to the FAA in response to the DEIS. The email stated that the FAA is currently preparing an Essential Fish Habitat (EFH) assessment. The NMFS requested that the permit be held in abeyance pending completion of NMFS' review of the EFH assessment. Subsequently, an email was received from the NMFS on August 31, 2005, which referenced an additional letter from the NMFS to the FAA (dated July 13, 2005), a copy of which was faxed to the Corps on August 31, 2005. The NMFS stated that the FAA had provided an EFH assessment for the proposed project, and that the NMFS had no EFH conservation recommendations to provide. The NMFS also stated that it did not anticipate having any additional comments, if the West Bay site alternative was chosen and the FEIS appropriately addressed project impacts. The NMFS did not provide comments in response to issuance of the FEIS.

(4) State Historic Preservation Officer (SHPO): By letter dated June 17, 2005 the SHPO stated that the project area had been previously surveyed, and that four previously unrecorded archeological sites and six archeological occurrences were identified. The SHPO determined that three of the archeological sites and the six archeological occurrences are ineligible for listing in the *National Registry of Historic Places* (NRHP). However, the SHPO stated that one of the unrecorded archeological sites should be subjected to a professional archeological site assessment and evaluation. Subsequently, after email exchange between the Corps project manager and a representative of the SHPO, the SHPO sent a letter dated July 20, 2005, in which the SHPO withdrew the recommendation for a professional archeological site assessment and evaluation; and concluded that the proposed project would have no effect on historic properties, because the archeological site in question is located outside the proposed area of potential effect.

(5) State and local agencies: Other than the SHPO, no responses to the public notice were received from state and local agencies.

(6) Organizations:

(a) By letter dated May 16, 2005 the Panama City Beach Convention and Visitors Bureau stated its support for the relocation of the airport to the West Bay site; and stated that the relocated airport is needed to support and expand the tourism industry, which is responsible for 1.5 billion dollars to the local economy.

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(b) By letter dated May 19, 2005 the Panama City Beaches Chamber of Commerce stated support for the relocation of the airport to the West Bay site, as being vital to the public interest, public safety, environmental protection, economic development and regional planning.

(c) By letter dated May 23, 2005 the Bay County Chamber of Commerce requested approval of a permit by the Corps for the proposed project, and commented that the project would have significant economic and environmental benefits to the region.

(d) On May 20, 2005 Ms. Lesley Blackner emailed a request to extend the public notice comment period. By return email on May 20, 2005 the Corps responded that the comment period would not be extended, but that the Corps would accept and consider her comments, if received before a final decision were made. Ms. Blackner submitted written comments, dated May 27, 2005 on behalf of the Northwest Florida Group Sierra Club, Clean Water Network Southeast Region, Panhandle Citizens Coalition, Citizens for the Bay, and Floridians for Environmental Accountability and Reform. Enclosed with the letter were copies of a newspaper article regarding The St. Joe Company, and copies of Department of the Army (DA) Environmental Assessments and Statements of Finding (EASOFs) for four projects, which the Corps had denied in Florida in 2005. Ms. Blackner had numerous concerns and objections regarding the potential environmental impacts of the project, and the Corps' administration of its evaluation of the project. Ms. Blackner believes that the project is contrary to the public interest, and is not consistent with the Clean Water Act, and thus a DA permit for the project should be denied. The letter included a request for a public hearing. An acknowledgment of the public hearing request was sent to Ms. Blackner on July 26, 2005.

(e) On June 1, 2005 the Corps received an email with an attached letter from Mr. Frank Gorham, President of Friends of PFN, Inc., which listed various opinions and objections regarding the proposed project, and stated that the project should not be permitted. Most of the letter was a copy of comments submitted by Mr. Gorham on behalf of Friends of PFN, Inc. to the FAA in response to issuance of the DEIS. Responses to Mr. Gorham's DEIS comments are provided in the FEIS (Vol. V). Specific to the Section 404 permit application, Mr. Gorham stated that the Corps cannot legally approve the requested permit unless there is no other suitable alternative. The letter also included a request for a public hearing. An acknowledgment of the public hearing request was sent to Mr. Gorham on June 7, 2005.

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(f) On June 2, 2005 the Corps received comments and objections to the project by email from Ms. Melanie Shepherdson of the Natural Resources Defense Council (NRDC). Attached to the email were copies of the NRDC's comments specific to the permit application, the NRDC's comments in response to the DEIS, which were submitted to the FAA in January, 2005, a newspaper article regarding The St. Joe Company, various documents regarding Bay County land use, Chapter 2 from *Compensating for Wetland Losses under the Clean Water Act (2001)*, and copies of DA EA/SOFs for four projects, which the Corps had denied in Florida in 2005. The NRDC's comments to the DEIS are addressed in the FEIS (Vol. V). In the NRDC's comments regarding the Section 404 permit application for the proposed project, the NRDC stated that Corps should deny the permit because the project would have irreversible adverse impacts on the environment and wildlife. The NRDC had concerns and objections regarding the public notice, alternatives analysis, minimization of adverse environmental effects, water quality, 404(b)(1) guidelines, the public interest review, and threatened and endangered species.

(7) Individuals:

(a) Twenty-two letters and emails in support of the proposed project were received by the Corps from private individuals and business owners/leaders from May 13 through June 6, 2005. Comments supporting the proposed project included: (1) requesting the Corps to favorably review the project in light of efforts made by the applicant along with various governmental and private groups to develop a project in keeping with the Detailed Specific Area Plans (DSAPs) developed for the project area; (2) a new airport would provide modern facilities, long runways and large overrun areas to safely accommodate a wide range of aircraft; (3) increased air safety; (4) attract competitive air service; (5) flexibility for expansion; (6) remove the current airport out of an area, which is becoming increasingly congested; (7) the project would be important for regional economic development and would serve as a catalyst to attract new industry and high-paying jobs to the region; (8) there were more than twenty public meetings that lead to the development of the West Bay Sector Plan; (9) the proposed project is the centerpiece of the 74,000-acre West Bay Sector Plan, which calls for the protection of almost 37,000 acres of land surrounding West Bay; (10) the project and the West Bay Sector Plan is an example of wise growth management, use of natural resources, and long-range vision for the community; (11) the current airport site is problematic due to its location on North Bay and Goose Bayou, expansion at the existing site would impact the bay and/or many adjacent residences and businesses, and the site is susceptible to flooding and other damage from serious storms; (12) the proposed site and the West Bay Sector Plan would provide an airport site free of

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incompatible land uses now and in the future; and (13) the proposed mitigation plan would protect almost 10,000 acres and would improve the drainage basins of Burnt Mill Creek and Crooked Creek and improve habitat value, wildlife usage and water quality throughout the drainage basin.

(b) Eight-six form letters dated June 3, 2005 were received from members of the Bay County Chamber of Commerce in support of issuance of a permit for the proposed project. The letter stated that the airport location was important for the implementation of the West Bay Sector Plan, as a path for growth management in the community; that the sector plan allows for watershed planning and a systematic approach for environmental protection; and that the long-term benefits of the proposed project would more than offset short-term impacts to the environment.

(c) By email dated May 16, 2005 Ms. Lesli Irie expressed general concern for wetlands and the environment in reference to the proposed project.

(d) By email dated May 18, 2005, Mr. Donald R. Hodges forwarded an email, which had been sent out by Mr. Bob Warren, President and CEO of the Panama City Beach Convention and Visitors Bureau, to approximately one hundred businesses, and which provided three example letters for the email recipients to send to the Corps in support of the proposed project. Mr. Hodges sent another email to the Corps on May 30, 2005 with various attachments. A hard copy of the attachments was received on May 31, 2005. Two of the attachments were copies of Mr. Hodges' and the Natural Resources Defense Council's comments regarding the DEIS, which were submitted to the FAA in January, 2005. Comments regarding the DEIS are addressed in the FEIS (Vols. III, IV and V). Another attachment comprised a letter detailing Mr. Hodges' comments regarding the permit application for the proposed project. Section 1 of the letter was a reiteration of concerns and comments regarding the DEIS. Section 2 specifically addressed the permit application, but included several references to various alternatives that are addressed in the FEIS. In the letter Mr. Hodges requested that the Corps deny a Section 404 permit for the project. The letter included numerous objections and concerns, including that the applicant does not own nor has any legal interest in either the project site or mitigation areas; the current owner of these properties should either be a principal in this application or convey legal interest in the property to the applicant; an independent private conservation entity should receive the mitigation property; need for financial guarantees that the mitigation plan will be funded in perpetuity; and mitigation lands should be preserved, undeveloped, and managed in perpetuity completely outside the ownership and control of the present owner or any political subdivision. A request for a public hearing was also attached to the May 30, 2005 email. An acknowledgment of the public hearing request was sent to Mr. Hodges on June 7, 2005.

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(e) By email dated May 25, 2005 Mr. Richard Sommerville requested that the public notice comment period be extended an additional 30 or 60 days. On May 26, 2005 the Corps responded by return email, that the comment period would not be extended, but that the Corps would accept and consider his comments, if received before a final decision were made.

(8) Others Including Internal Coordination: No internal coordination was necessary.

e. Post-Public Notice Comment Period Comments:

(1) NRDC Mass Letter Campaign – February 2006: In February 2006 the NRDC provided on its “savebiogems.org” web site, an automated service to send a copy of a form letter to the Corps and FAA requesting that the proposed project not be approved. Specifically, the form letter requested that a CWA permit be denied; and commented that the existing airport is adequate to meet projected air travel demand; that the destruction of 2,000 acres of wetlands would have a substantial and irreversible adverse impact on ecosystems, habitat and wildlife in the West Bay and St. Andrew Bay watersheds; that due to the project’s proximity to the headwaters of Crooked Creek and Burnt Mill Creek the natural flow of water into West Bay would be disrupted and would lead to degraded water quality and habitat lost for sea turtles and Gulf sturgeon; and that the project would lead to greater cumulative impacts from project induced industrial and commercial projects. The form letters were received by the Corps by email, facsimile and postal mail. Between February 27, 2006 and July 3, 2006 the Corps received approximately 850 copies of the letter (including letters which had been slightly modified by individual senders).

(2) NRDC Mass Letter Campaign – July 2006: In July 2006 the NRDC provided on its “savebiogems.org” web site, an automated service to send a second form letter to the Corps. The form letter requested that the Corps perform a complete environmental review of the proposed project. The form letter also requested that a public hearing be held; and commented that there are less damaging alternatives; that the Corps has not met its obligation to analyze the full range of options; that the Corps narrowly defined the project purpose to eliminate all alternatives; that the Corps examined only a fraction of harmful environmental impacts of the first phase of the project, but considered a 50-year mitigation plan intended to compensate for project build-out; that the Corps must evaluate the impacts of losing 2,000 acres of wetlands directly and 7,000 acres of wetlands surrounding the airport from secondary development; and that the proposed project would eliminate 300 acres of flood surge protection and bury more than four

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miles of streams. The letters were received by the Corps by facsimile and postal mail. Between July 26, 2006 and October 23, 2006 the Corps received approximately 596 copies of the letter (including letters which had been slightly modified by individual senders). An acknowledgment of the public hearing request was sent to the NRDC on November 6, 2006, since it was the originator of the form letters.

(3) By letter dated July 3, 2006 and sent to the FAA in response to release of the FEIS, the NRDC, among comments regarding the FEIS, had several comments regarding the Corps' CWA responsibilities, particularly in terms of project purpose and need and the analysis of alternatives in light of the 404(b)(1) guidelines (copy of the letter can be found in the FAA's ROD, Appendix B).

(4) On October 19, 2006 the Corps received via email a copy of a letter with attached exhibits from Ms. Shepherdson of the NRDC and Mr. Jason C. Rylander of Defenders of Wildlife, which requested that the Corps and the FAA reinstate formal consultation under the ESA with the FWS, and prepare a supplemental EIS under NEPA in response to reports, that the federally listed, endangered species, Ivory-Billed Woodpecker (*Campephilus principalis*), had been detected in the bottomwood forests of the Choctawhatchee River, approximately 20 miles from the proposed project site.

(5) On December 4, 2006 a letter, dated October 26, 2006, was received by the Jacksonville District from Mr. Linwood W. Nichols. The letter had been addressed to the Mobile District. Mr. Nichols stated that the Corps is supporting the relocation of PFN, and requested that the Corps stop any finances or approvals relating to relocation of PFN. He stated that the citizens of Bay County had voted to stop the relocation, and that there have been many newspaper articles in opposition to the relocation. He provided copies of six articles. On December 20, 2006; February 13, 2007; May 29, 2007; and July 9, 2007, similar letters with additional newspaper articles attached, were received from Mr. Nichols.

(6) On January 30, 2007 the Corps received a letter addressed to both the Corps and FAA from Mr. Rylander of Defenders of Wildlife and Ms. Shepherdson of the NRDC, which referenced their letter dated October 19, 2006 (see paragraph 7.e(4) above) and again requested that the Corps and the FAA reinstate formal consultation under the ESA with the FWS, and prepare a supplemental EIS under NEPA in response to additional reports, that Ivory-Billed Woodpeckers, had been detected in the bottomland forests of the Choctawhatchee River, approximately 20 miles from the proposed project site.

(7) On April 9, 2007 the Corps received a letter from Ms. Shepherdson of the

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NRDC via email regarding impacts of newly proposed highway projects and the proposed airport relocation project. Specifically, the letter referenced a master plan adopted on April 5, 2007 by the Northwest Florida Transportation Corridor Authority (NWFTCA), which identifies two proposed highway projects in the vicinity of the proposed relocated airport. Ms. Shepherdson stated a concern that the FAA and Corps did not consider the impacts of these highways in reference to the proposed relocated airport in the EIS. Ms. Shepherdson requested that the Corps disclose the impacts of these highways in a Supplemental Impact Statement for the airport relocation project. The two projects are identified as the “West Bay Bypass” and the “Freeport-West Bay Connector”, projects #38 and #40 respectively on the master plan list. NRDC was particularly concerned regarding the route of the proposed Freeport-West Bay Connector, which would cross the Choctawhatchee River, its floodplain and associated conservation lands, in which claims have been made of sightings and other evidence of the Ivory-Billed Woodpecker.

(8) On May 17, 2007 the Corps received an email from Mr. Fred Werner, President of Friends of PFN, Inc. with an attachment consisting of a letter from Mr. Werner and Ms. Linda Young, Director, Clean Water Network of Florida. The letter alleged that St. Joe may be discharging dredged and fill materials into waters of the United States on the site for the proposed relocation of the PC Airport. The letter requested that the Corps investigate the matter, and take action to halt St. Joe from taking further action.

(9) On June 21, 2007 the Corps received a letter from Ms. Shepherdson of the NRDC via email, which requested clarification regarding the acreage of cypress on the proposed relocation site. Ms. Shepherdson noted inconsistencies of the acreage of cypress cited in the FEIS, the “draft 404 permit”, and the Airport DSAP. Attached to the letter was a copy of an affidavit of Stephen E. Davis III, dated March 22, 2007, which was submitted to the United States Court of Appeals for the Second Circuit by the NRDC, Defenders of Wildlife and Friends of PFN in their challenge to the FAA’s ROD for this project. Ms. Shepherdson requested that the affidavit be reviewed as part of the Corps’ ongoing evaluation of the application for a 404 permit for the proposed project.

(10) On July 13, 2007 the Corps received a letter from Ms. Shepherdson of the NRDC via email, which requested clarification regarding use of borrow pits for fill on the proposed project site. Ms. Shepherdson stated that bidders for the project had priced the construction work to include the use of offsite borrow sites to provide fill for the project. Her comments centered on the assumption that fill material would be piped as a slurry from the borrow sites to the proposed project site. Ms. Shepherdson had several concerns regarding slurry related impacts on the aquatic environment and on the Floridan Aquifer. She also had concerns relating to well-pointing to dewater the site

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during construction of the proposed project.

(11) During July and August, 2007 the Corps received forty postcards and two form letters in opposition to the issuance by the Corps of a permit for the proposed project. The postcard stated that the project would destroy almost 2,000 acres of wetlands and 7,200 linear feet of streams with an estimated 7,000 acres of wetlands lost to nearby development, and would destroy West Bay. The postcard requested the Corps to consider the alternatives developed by the FAA for the present airport. In addition, the letters extolled the value of cypress swamps and the cost of the proposed project to taxpayers.

f. Freedom of Information Act (FOIA) Requests:

(1) By letter sent by facsimile to the FOIA Officer for the Jacksonville District, Corps of Engineers dated April 6, 2006 Ms. Shepherdson of the NRDC made a FOIA request regarding the Section 404 permit for the proposed project. By letter sent by facsimile to the FOIA Officer for the Jacksonville District, Corps of Engineers, and to the Corps project manager in Panama City, Florida, dated July 24, 2006, Ms. Shepherdson made an inquiry as to the status of the FOIA request she had made in April 2006. A response letter, dated January 8, 2007 was sent to Ms. Shepherdson from the Jacksonville District's Office of Counsel. The letter included enclosures considered to be responsive to the request. The letter also stated that if the response was considered a denial of the request, that Ms. Shepherdson had 60 days to appeal the decision.

(2) By letter dated September 13, 2006 Mr. Ernest F. Hasselbrink made a FOIA request regarding the proposed project. A response letter, dated April 12, 2007 was sent to Mr. Mr. Hasselbrink from the Jacksonville District's Office of Counsel. The letter said that documentation, which shows the coordination and views by the Corps on the FEIS, is still in draft form and is not finalized, and thus is exempt from release. In response to Mr. Hasselbrink's request for documentation of the Corps' independent study regarding the need for international travel, the Corps' expertise to make such a study, and the Corps position on feasibility of transplanting seagrass in local waters, the letter said that there were no such studies or documents in the Corps possession to release. The letter stated that if the response was considered a denial of the request, that Mr. Hasselbrink had 60 days to appeal the decision.

(3) By letter dated November 25, 2006 Mr. John Hedrick made a FOIA request on behalf of the Sierra Club, Florida Chapter, regarding the proposed project. A response letter, dated December 29, 2006 was sent to Mr. Mr. Hendrick from the Jacksonville District's Office of Counsel. The letter included enclosures considered to

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be responsive to the request. The letter also stated that if the response was considered a denial of the request, that Mr. Hendrick had 60 days to appeal the decision.

g. Applicant's response to the comments to the public notice: On November 1, 2005 the Corps coordinated with the applicant and the applicant's consultants, the objections and concerns regarding the proposed project received in response to the public notice and the Corps concerns regarding the proposed project. Corps concerns included the need for clarifications regarding wetlands in the WMP; the need for clarifications regarding the proposed mitigation plan, including what activities would be allowed within the mitigation areas and financial assurances; and that additional pre-project and post-project water quality and biotic monitoring of Burnt Mill Creek and Crooked Creek should be required. The applicant responded to the comments and the Corps concerns in writing on June 12, 2006. On July 26, 2006, the Corps received from the applicant's consultants, a letter revising two of the responses in the June 12, 2006 letter. The applicant's written responses; subsequent meetings, emails, and telephone conversations among the Corps project manager, other agency representatives, and the applicant's consultants; receipt of a modified mitigation plan and a modified WMP; other various project updates and revisions; documentation for financial assurances for the proposed mitigation plan; and the submittal of a pre-project and post-project water quality and biotic monitoring plan; resolved the Corps' various concerns. The Corps' analyses of the comments are in Section 13 below.

8. Alternatives: Ultimate development of a conceptual, 50-year, multi-phase airport facility at the West Bay Site alternative was the applicant's initial preferred alternative for purposes of the Corps permit application. Implementation of the applicant's preferred alternative would directly impact 1,513 acres of jurisdictional wetlands and 17 acres of non-jurisdictional wetlands of the 1,936 acres of jurisdictional and non-jurisdictional wetlands on the 4,037-acre airport relocation site within a 50-year period for a conceptual, multi-phased airport facility. However, only the initial Phase 1, 8,400-foot runway portion (i.e., through the year 2018) of the project was provided in sufficient detail for the Corps to evaluate for authorization for construction. Therefore, the Corps with the applicant's concurrence, chose to disclose and evaluate in general terms the proposed ultimate, multi-phased, 50-year conceptual project, and evaluate the Phase 1 project for possible authorization by a 50-year DA permit. The Phase 1 project is a "stand alone" component of the more speculative, multi-phase, conceptual 50-year project, and is not dependent on those future, proposed phases to operate. The Corps would evaluate in detail, any future individual construction phases, as they are proposed by the applicant, over the life of the conceptual project. Authorization for the construction of subsequent phases, as modifications to the permit, would require substantial additional detail and NEPA review, either as supplemental EIS's or EAs and

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evaluation under the CWA, the Section 404(b)(1) guidelines, the public interest review and other requirements of the Corps regulatory authorities. These evaluations would include minimization of impacts and adequacy of proposed compensatory mitigation within the context of the conceptual project.

The governing regulations and required actions of the Corps and FAA to implement their respective programs in response to the proposed project are substantially different. The Corps is required to evaluate alternatives for proposed projects under NEPA and the Section 404(b)(1) guidelines. Under NEPA and pursuant to Corps regulations found at 33 CFR Part 325, Appendix B, only reasonable alternatives need be considered in detail. Reasonable alternatives must be those that are feasible and such feasibility must focus on the accomplishment of the underlying purpose and need (of the applicant or the public) that would be satisfied by the proposed federal action (permit issuance).

Under the Section 404(b)(1) guidelines, no discharge of dredged or fill material into a special aquatic site (such as wetlands) for a non-water dependent activity, shall be permitted, if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences. An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

In response to the above considerations, the Corps chose to develop a separate project purpose and need from that of the FAA for the FEIS (Vol. I, Sections 2.5.3 and 3.11.1). The Corps defined a basic project purpose and an overall project purpose using criteria based on the Corps' identification of project purpose and need. The Corps basic and overall purposes are identified in Section 3 above and in the FEIS (Vol. 1, Sections 2.5.3 and 3.11.1). The Corps' independent development of the overall project purpose led the Corps to perform a separate alternatives evaluation in the FEIS (Vol. I, Section 3.12). Both the Corps and FAA evaluated various project alternatives based on their respective agency identified needs and purposes for the project. The alternatives that the Corps evaluated correspond to the FAA's Level 1 alternatives, except that the multiple existing site alternatives for the FAA's evaluation were grouped into one "Existing Site" category for the Corps' evaluation.

As detailed in the FEIS (Vol. I, Sections 3.11 and 3.13), the following alternatives were evaluated by the Corps based on project purpose and need: No Action, Other Modes, Other Airports, Tyndall Joint Use, Separate Facilities, West Bay Site, Callaway Site, East-Bay/West Gulf Site and Existing Site. The Corps concurs with and

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incorporates the FAA's description of the alternatives as described in the FEIS (Vol. I, Sections 3.1 through 3.6). The Corps depended on and utilized the FAA's Level I alternatives evaluation as the lead agency with expertise in regards to airport facilities that meet FAA safety and design standards, facilities that provide for aviation demand within the defined market area, and facilities that are compatible with current airspace configuration and utilization.

The Corps determined, as stated in the FEIS on page 3-68, that the following alternatives were neither reasonable nor feasible due to their failure to satisfy the accomplishment of the underlying purpose and need, as identified by the Corps for this project: No Action, Other Modes, Other Airports, Tyndall Joint Use, Separate Facilities, Callaway Site, East-Bay/West Gulf Site and Existing Site. Two alternatives, which the Corps carried forward for additional evaluation are the No Action alternative, as required by NEPA and the Section 404(b)(1) guidelines; and the West Bay Site alternative, which is specifically described by the Corps as the West Bay 8,400-foot alternative (FEIS, Vol. I, Section 3.13.2). The Corps concurs with and adopts the descriptions and evaluation of these two alternatives in regards to the Affected Environment and Environmental Consequences, as found in the Chapters 4 and 5 of the FEIS.

a. Avoidance (No Action and Alternative Sites): The No Action (i.e. "deny the permit") alternative would be the environmentally preferred alternative, since this alternative would have the least environmental impact of any of the alternatives evaluated. However, the No Action alternative would not meet any of the purpose and need criteria as identified by the Corps for this project (FEIS, Vol. I, Section 3.11.1). The No Action alternative is not reasonable, feasible, nor practicable in light of the overall project purpose.

As referenced in the introduction to this section, alternative sites and alternative transportation modes (Other Modes, Other Airports, Tyndall Joint Use, Separate Facilities, Callaway Site, East-Bay/West Gulf Site and Existing Site) would not meet all of the purpose and need criteria as identified by the Corps for this project (FEIS, Vol. I, Section 3.11.1). Thus none of these alternatives would be reasonable, feasible, or practicable in light of the overall project purpose.

Therefore, as discussed in the FEIS (Vol. I, Section 3.13.2), and as restated above, the only alternative that would accomplish the purpose and need for the project, as defined by the Corps, and thus would be a reasonable alternative, was the West Bay Site 8,400-foot runway alternative (i.e., Phase 1). This is the only alternative that would, according to the overall project purpose, allow development of air transportation facilities, which would meet FAA safety and design standards, which could operate and

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grow to allow future opportunities for expansion of air transportation services, including international charter operations, and which would be compatible with local and regional planning efforts within the region centered in Bay County, Florida.

b. Minimization: Information regarding the applicant's effort at minimization for both the 50-year, conceptual, multi-phase project and Phase 1 are found in the FEIS (Vol. 1, Section 2.2.1). In consideration of the location of runways, the various components required to safely operate a commercial airport facility, site geometry, and the mosaic of uplands and wetlands on the proposed project site, the on-the-ground footprint of the West Bay Site 8,400-foot alternative has been minimized to allow for the construction of the Phase 1 component of the proposed relocated PFN project. The Phase 1 boundary corresponds to the area required to construct and fully operate a relocated, international airport, that would meet various operational, aeronautical and safety criteria, and would include the following components: 1) a 8,400-foot air carrier primary runway with a 5,000-foot crosswind runway, 2) airside and landside facilities to support runway operations, including taxiways, aprons and clear zones, 3) an air traffic control tower and support facilities, 4) commercial passenger terminal, 5) vehicular access roads and parking, 6) airport entrance drive and airport roadway system, 7) rental car service facilities and staging areas, 8) fuel storage facilities, 9) aircraft rescue and firefighting facility, 10) public safety facilities, 11) maintenance facilities, 12) wastewater collection, treatment and disposal facilities, 13) potable water treatment, storage and distribution system, 14) associated commercial support facilities, 15) aircraft storage hangers, 16) air cargo facilities, 17) storm water management facilities, and 18) airfield lighting vault.

c. Project as Proposed: The project site is located in portions of the headwater drainages of Burnt Mill Creek and Crooked Creek and would impact these drainages and wetlands associated within them. The Phase 1 project, as proposed, would impact all 595.2 acres of wetlands (including 9 acres of isolated, non-jurisdictional wetlands) within a 1,368.9-acre portion of the 4,037-acre site. Wetlands that would be impacted would include 298.0 acres of hydric pine plantation, 56.3 acres of titi swamp, 71.2 acres of cypress swamp, 164.7 acres of mixed wetland forests, and 5.0 acres of freshwater marsh. The proposed Phase 1 project would also impact 7,229 linear feet of non-wetland waters of the U.S. comprising small streams and tributary drainages of Morrell Branch, which flows into Burnt Mill Creek; and Kelly Branch and Bear Bay Branch, which flow into Crooked Creek (FEIS, Vol. I, Section 5.13). The applicant's proposed mitigation plan addresses compensatory mitigation for impacts to wetlands and other waters associated with the entire proposed, conceptual, multi-phase, 50-year project. The three mitigation areas are comprised of 9,609 acres dominated by planted pine wetlands and uplands with areas of titi swamps, mixed forested wetlands, cypress swamps, pine flatwoods, freshwater marsh/shrub wetlands, tidal marsh, and small

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streams. The mitigation plan would preserve the mitigation areas and restore and enhance planted pine areas to wet pine flatwoods, wet pine savanna, mesic flatwoods and sandhill habitat, which historically occurred in the area. Restoration and enhancement would also take place in the other onsite habitats as well. The proposed mitigation would compensate for impacts to the aquatic environment resulting from the Phase 1 project (see Section 9.b(4)(b) below).

d. Conclusions of Alternatives Analysis: The West Bay Site 8,400-foot runway alternative (Phase 1) is the only alternative that would allow development of air transportation facilities, which would meet FAA safety and design standards, which could operate and grow to allow future opportunities for expansion of air transportation services, including international charter operations, and which would be compatible with local and regional planning efforts within the region centered in Bay County, Florida.

The proposed Phase 1 project is considered the least environmentally damaging practicable alternative because it is the only reasonable, feasible and practicable alternative, which would meet the project's overall purpose; the project has been minimized to that required to develop a fully functional and operational international airport for commercial and civilian use; and the project would include mitigation to compensate for environmental impacts to waters of the United States, including wetlands.

9. Evaluation of the 404(b)(1) Guidelines:

a. Factual determinations:

(1) Physical substrate: The fill material to be placed within wetlands and streams within the Phase 1 site would replace pre-project bottom elevations after the removal of unsuitable materials (such as organics) to the proposed finished grade of the proposed airport facilities. The proposed placement of fill materials within wetlands and streams would alter the physical nature of the existing soils through the introduction of these materials, and the placement of impervious surfaces over most areas of fill for the construction of various components comprising Phase 1 of the relocated PFN. Other areas, which would not be covered by impervious surfaces, would consist of stormwater treatment facilities and grassed buffer areas common to airports. Overall, wetlands, some with internal flow-ways and streams, would be eliminated within the direct impact areas comprising the Phase 1 project.

Turbidity rates in and adjacent to the project stream channels would be temporarily increased during construction; however, these impacts should be of only

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short duration and minor with the implementation of the required, appropriate erosion control measures. Erosion from the wetland fill into adjacent wetlands or waters should be minor with implementation of mandatory erosion control measures (FEIS, Vol. I, Sections 5.22.3 and 5.22.4.3). The Section 401 Water Quality Certification (*Ecosystem Management Agreement and Other Related Permits*) for this project was issued by FDEP on December 1, 2006.

The special conditions of the Section 401 Water Quality Certification would be incorporated as special conditions of a DA permit, if issued. Therefore, the applicant would be required prior to and during construction, and during operation of the facility, to implement and maintain erosion and sediment control best management practices needed to retain sediment on-site and to prevent violations of state water quality standards.

(2) Water circulation, fluctuation, and salinity: The stormwater design would closely match post-development discharge locations and rates to pre-development conditions within each sub-basin after leaving the airport site footprint, particularly at stream locations such as Kelly Branch and Bear Bay. This would help to maintain hydrologic integrity downstream. The rates and volume of freshwater entering West Bay and the St. Andrew Bay Estuary would not substantially change as a result of the project (FEIS, Vol. I, Section 5.8.4.3).

Water quality certification (*Ecosystem Management Agreement and Other Related Permits*) for the project was issued by the FDEP on December 1, 2006. Certification of compliance with applicable effluent limitations and water quality standards required under provisions of Section 401 of the CWA are considered to be conclusive with respect to water quality considerations unless the Regional Administrator, EPA, advises of other water quality aspects to be taken into consideration. The EPA did not advise the Corps of any water quality aspects to be taken under consideration.

The Corps would require, as a permit condition of the DA permit, if issued, the implementation of the applicant's proposed construction and post-construction monitoring plan that would include water and sediment sampling and monitoring of stream biota in downstream sites, including Burnt Mill Creek, Crooked Creek and West Bay.

(3) Suspended particulate/turbidity: During construction of the proposed Phase 1 project, compliance with NPDES permits and implementation of current erosion and sedimentation control BMPs in accordance with FAA Advisory Circular 150/5370-10B

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would minimize the possibility of the entry of sediment into adjacent wetlands and waterbodies. Likewise, stormwater treatment to Outstanding Florida Waters (OFW) standards would prevent sediment from entering adjacent waters once the airport is constructed. Finally, enhancement and restoration activities within the mitigation area would improve the filtering ability of wetlands and water courses draining to West Bay. (FEIS, Vol. I, Sections 5.8.4.3, 5.22.3 and 5.22.4.3; and paragraph 9.b.(4)(b) below).

(4) Contaminant availability: Much of the fill material would be comprised of material derived from onsite excavation and reshaping of the surface of the project site. The source of offsite derived fill material is unknown, but the DA permit, if issued, would require the use of clean fill material compatible with existing soils (e.g., soil, rock, sand, marl, clay, stone, and/or concrete rubble). Turbidity, erosion and stormwater controls would be maintained during construction of the project; and in the post-construction operation of the project, as required by the Section 401 Water Quality Certification, as referenced in paragraphs 9.a.(1), 9.a.(2) and 9.a.(3) above, and described in detail in the FEIS, Section 5.8.4.3.

(5) Aquatic ecosystem effects: The Phase 1 project would be located within portions of the headwater drainages of Burnt Mill Creek and Crooked Creek and would impact these drainages and their adjacent wetlands. All 595.2 acres of wetlands (including 9 acres of isolated, non-jurisdictional wetlands) within the Phase 1 site boundary would be directly impacted. Wetlands that would be impacted include 298.0 acres of hydric pine plantation, 56.3 acres of titi swamp, 71.2 acres of cypress swamp, 164.7 acres of mixed wetland forests, and 5.0 acres of freshwater marsh. The proposed Phase 1 project would also impact 7,229 linear feet of non-wetland waters of the U.S. comprising small streams and tributary drainages of Morrell Branch, which flows into Burnt Mill Creek; and Kelly Branch and Bear Bay Branch, which flow into Crooked Creek (FEIS, Vol. I, Section 5.13). Although many of the wetlands proposed to be impacted are altered and degraded by silviculture to different degrees, they still provide various levels of valuable wetland functions both to the surrounding area and to receiving waterbodies, including water quality benefits. Minimization of the detrimental impact on water quality that could result from the loss of wetlands and operation of the airport facility on the project site, would be accomplished by the implementation of the stormwater plan, as certified by the FDEP on December 1, 2006. The applicant provided a WRAP analysis to assess the functions that these wetlands provide, so that appropriate and sufficient mitigation could be provided to compensate for these lost functions. The applicant's proposed mitigation plan addresses compensatory mitigation for impacts to wetlands and other waters associated with the entire proposed, conceptual, multi-phase, 50-year project. The three mitigation areas comprise 9,609 acres dominated by planted pine wetlands and uplands with areas of titi swamps, mixed

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forested wetlands, cypress swamps, pine flatwoods, freshwater marsh/shrub wetlands, tidal marsh, and small streams. Implementation of the mitigation plan would preserve the mitigation areas and restore and enhance planted pine areas to wet pine flatwoods, wet pine savanna, mesic flatwoods, sandhill habitat, and other onsite habitats, which historically occurred in the area, and would provide an increase in the ability of the wetlands within the mitigation parcels to provide the many valuable functions, which wetlands provide, both to surrounding habitats and to receiving waterbodies. Ultimately, the WRAP analysis demonstrated a surplus in functional lift compared to functional loss. Overall, the proposed mitigation would compensate for impacts to the aquatic environment resulting from the Phase 1 project (see FEIS, Vol. 1, Section 5.13.3 and Section 9.b(4)(b) below).

(6) Proposed disposal site: The proposed fill discharge would be contained at the site of placement. Material is not expected to migrate from its location of discharge. Erosion and turbidity would be controlled as referenced in 9.a(1) and 9.a(3) above. Impacts on the aquatic environment by the discharge of fill material on the proposed project site and mitigation for those impacts are described in paragraphs 9.a(1) through 9.a(5) above and paragraph 9.b(4)(b) below.

(7) Secondary and (8) Cumulative effects: The Corps concurs with and incorporates by reference the secondary and cumulative effects analysis for the West Bay Site Alternatives (for the proposed Phase 1 project), as found in the FEIS, Vol. I, Section 5.26, and in the FAA's ROD, Section 9.22. Overall, it can be expected that the proposed project will be a catalyst for economic development in the West Bay area, potentially altering the developmental patterns in Bay County with the creation of a new center of economic activity centered on the relocated airport. This new center of economic development would be comprised of commercial, industrial, office and residential components. Minimization of and mitigation for the direct, secondary and cumulative impacts on the aquatic environment, including receiving waterbodies, which would result, if the proposed project were built, include: 1) development by Bay County of the West Bay Sector Plan, and the accompanying Airport DSAP and West Bay DSAP, which identify appropriate locations of the proposed relocated airport and specified development areas, provision for appropriate conservation and mitigation areas, identification of the approximately 37,000-acre West Bay Preservation Area (WBCA), and potential zoning changes to guide future development; and 2) creation of the 9,609-acre compensatory mitigation area, in which wetlands, uplands and streams would be restored and preserved. In addition, any subsequent development in the West Bay area, whether induced by the proposed airport relocation project or not, if determined to require authorization from the Corps, would be subject to the Corps regulatory review and analysis, including analysis of direct, secondary and cumulative

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impacts on the aquatic environment. As for the relocated airport project itself, the Phase 1 project, as a separate construction authorization under the umbrella of a proposed 50-year permit, is the specific project under evaluation in this RODSOF. Specific authorization for the construction of subsequent phases, as modifications to the 50-year permit, would require substantial additional detail, additional NEPA review, either as supplemental EIS's or EAs, as well as review under the CWA and other appropriate federal statutes and regulations. Review of the individual construction phases would include evaluation for minimization of impacts to the aquatic environment and mitigation. The 50-year permit identifies, but does not authorize, the potential, but hypothetical, multi-phase build-out of the 50-year plan for the proposed relocated airport. The 50-year permit, therefore, would provide an overall project framework in which the Phase 1 project, and potential future phases, can be considered and evaluated. The 50-year permit would also allow implementation of the applicant's proposed mitigation plan for the ultimate proposed project, before approval of the individual construction phases.

b. Restrictions on discharges:

(1) Alternatives (See paragraph 8):

(a) The activity is located in a special aquatic site (wetlands, sanctuaries and refuges, mudflats, vegetated shallows, coral reefs, riffle and pool complexes, etc.).

yes(X) no()

(b) The activity needs to be located in a special aquatic site to fulfill its basic purpose.

yes() no(X)

(c) It has been demonstrated in paragraph 8 above that there are no practicable nor less damaging alternatives which would satisfy the project's overall purpose.

yes(X) no()

(d) The least damaging alternative has no other significant environmental effects.

yes(X) no()

(2) Other program requirements:

(a) The proposed activity violates applicable State water quality standards or Section 307 prohibitions or effluent standards.

yes() no(X)

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(b) The proposed activity jeopardizes the continued existence of federally listed threatened or endangered species or affects their critical habitat.
yes() no(X)

(c) The proposed activity violates the requirements of a federally designated marine sanctuary.
yes() no(X)

(3) The activity will cause or contribute to significant degradation of waters of the United States, including adverse effects on human health; life stages of aquatic organisms; ecosystem diversity, productivity and stability; and recreational, esthetic, and economic values.
yes() no(X)

(4) Minimization of adverse effects:

(a) Appropriate and practicable steps have been taken to minimize potential adverse impacts of the discharge on the aquatic ecosystem.
yes(X) no()

(b) Compensatory mitigation: DA Regulatory Guidance Letter 02-02 (RGL 02-02) recommends that Districts use watershed and ecosystem approaches when determining compensatory mitigation requirements to replace functional losses to aquatic resources. Such approaches consider the resource needs of the watersheds where impacts would occur, and also consider the resource needs of neighboring watersheds. Applicants are encouraged to design mitigation plans, which include a mix of habitats, such as open water, wetlands, and adjacent uplands, so as to provide a greater variety of functions to benefit affected watersheds. Districts are encouraged to use functional assessments to quantify impacts and compensatory mitigation. The use of WRAP for functional assessments is specifically referenced in the guidance.

The following synopsis of the proposed compensatory mitigation plan for this project supplements and incorporates directly and by reference information provided in the FEIS in Section 5.13.

The three parcels comprising the 9,609-acre mitigation site are located within the approximately 37,000-acre WBPA. The WBPA is identified in the Sector Overlay Plan for the West Bay area, which identifies proposed land uses within an approximately 75,000-acre area, and includes the proposed airport relocation site. The lands comprising the WBPA were selected to protect water quality and other resources associated with West Bay, and to provide wildlife corridors within the WBPA, Pine Log

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State Forest and other conservation areas. The proposed mitigation area would comprise approximately 25% of the WBPA and contains habitats similar to those within the project site. The mitigation area is within the same watershed (West Bay), as the project site. Portions of the mitigation area overlap the Burnt Mill Creek and Crooked Creek basins. The mitigation area would protect miles of coastline of West Bay and a large percentage of several drainage basins draining to West Bay. These preservation lands would help protect the St. Andrew Bay watershed and receiving waters, including West Bay. Site selection of the mitigation parcels and development of the mitigation plan were coordinated with and reviewed by the Corps, along with other federal and state agencies, as part of the FEIS and Section 404 permit application evaluation processes, as well as during the ETP process.

The proposed West Bay airport relocation site and mitigation areas are currently owned by St. Joe. Pursuant to a Land Donation Agreement (LDA) signed by the applicant and St. Joe on August 22, 2006, St. Joe would donate the proposed airport relocation site to the applicant through transfer by Special Warranty Deed, while the mitigation areas would remain in the ownership of St. Joe, but would be encumbered by a perpetual conservation easement with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, as grantee. The LDA states that the uses permitted on the mitigation areas would be limited to those consistent with the conservation easement, as well be consistent with the conditions set forth under the EMA between the FDEP and applicant, and the DA permit, if issued. In addition, the LDA states that the applicant shall be solely responsible for the management, implementation and costs of the mitigation plan. The proposed mitigation plan specifically lists allowable and prohibited activities for the mitigation areas, which directly correspond to the allowable and prohibited activities, as found in the proposed conservation easement. The purpose of the allowable and prohibited lists of activities is to ensure that only those activities, which are appropriate for mitigation areas used to provide compensation for impacts to the aquatic environment, are allowed.

The WRAP was used to quantify wetland functions, which would be lost from impacts resulting from both the proposed Phase 1 project and the proposed, conceptual, 50-year full build-out project; and to quantify wetland functions that would be gained by implementation of the proposed compensatory mitigation plan. The WRAP analysis involved various components, including existing and with projects assessments for the impact and mitigation sites, time lag and risk factors. WRAP assessments were also made to quantify secondary (indirect) impacts to adjacent wetlands within 300 feet of dredge and fill impacts on the project site. Though not normally required by the Corps, the applicant voluntarily assessed isolated, non-jurisdictional wetlands for project impacts, and would provide compensatory mitigation

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for these impacts. For the proposed, conceptual 50-year build-out project, five construction phases at ten-year intervals were incorporated into the WRAP analysis to calculate the amount of functional loss for each phase. For the proposed Phase 1 project, the WRAP analysis demonstrated an estimated 27% net lift in wetland functions provided by the proposed compensatory mitigation over wetland functions, which would be lost from construction and operation of the Phase 1 project. For the entire conceptual, 50-year, multi-phase project, an overall net lift of approximately 26% was determined. The table below presents a summary of the WRAP analyses.

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WRAP Analysis Summary – Functional Lift vs. Loss

Project Phase	Activity Type ¹	Year of Initial Activity ²	Acres	Functional Lift/Loss	Net Lift (%)
0-10 Years	Direct Impact	0	595.2 ac.	-440 fu	
	Indirect Impact	0	363.3 ac.	-74 fu	
	Mitigation	0-5	3027.0 ac.	653 fu	
	<i>Subtotal</i>			139 fu	
11-20 Years	Direct Impact	11	205.1 ac	-153 fu	
	Indirect Impact	11	84.6 ac.	-18 fu	
	Mitigation	0-6	898.0 ac.	212 fu	
	<i>Subtotal</i>			41 fu	
21-30 Years	Direct Impact	21	473.3 ac.	-300 fu	
	Indirect Impact	21	131.8 ac.	-24 fu	
	Mitigation	0-14	1647.2 ac.	414 fu	
	<i>Subtotal</i>			90 fu	
31-40 Years	Direct Impact	31	191.5 ac.	-123 fu	
	Indirect Impact	31	23.3 ac.	-4 fu	
	Mitigation	0-19	589.8 ac.	148 fu	
	<i>Subtotal</i>			21 fu	
41-50 Years	Direct Impact	41	319.4 ac.	-221 fu	
	Indirect Impact	41	41.2 ac.	-9 fu	
	Mitigation	0-19	1111.5 ac.	296 fu	
	<i>Subtotal</i>			66 fu	
Total Direct Impacts				-1237 fu	
Total Indirect Impacts				-129 fu	
Total Mitigation				1723 fu	
				357 fu	26%

¹Direct Impact includes total functional loss of wetland, including wetlands within wildlife management program avoidance and minimization areas that are not included as impacts within the USACE permit but are considered total impacts for functional assessment purposes; Indirect impact includes partial function loss of wetland; Mitigation includes wetland restoration, enhancement, and preservation.

²Year(s) during which impact or mitigation activity is initiated for that phase as referenced to initial year of impact from Phase 0 – 10 yrs.

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The three parcels comprising the mitigation area have been divided into management units based on existing landscape features (mainly unpaved forest roads). Of the 9,609 acres comprising the mitigation area, approximately 8,610 acres are wetlands with the remaining approximately 999 acres comprising uplands. There are a total of 42 management units in the mitigation area, averaging 200-300 acres in size each. Habitat types present in the mitigation area are dominated by planted pine wetlands and uplands. Other habitat types include titi wetlands, mixed forested wetlands, cypress wetlands, pine flatwoods, freshwater marsh/shrub wetlands, tidal marsh, and small streams. These habitats are comparable to those proposed for impacts on the project site. The main goal of the mitigation plan is to convert planted pine areas back to wet pine flatwoods, wet pine savanna, mesic flatwoods, sandhill, and other habitat types that historically occurred in the area, via restoration and enhancement. All mitigation areas would be placed in conservation easements to ensure their perpetual protection.

The mitigation plan consists of a series of interrelated plans that describe and implement the following major mitigation activities: planted pine thinning; prescribed fire; longleaf pine planting; hydrologic restoration; exotic species control; wildlife management; dump site removal; monitoring; and long-term management. The planted pine thinning plan depicts planted pine stand ages, a thinning schedule, and prescribed thinning densities based on target ecological community types and whether or not longleaf pine would be planted in an area. The prescribed fire plan addresses the use of fire as a restoration and management tool, primarily in pine flatwoods, savanna, and sandhill habitats. Following the thinning of planted pine stands, the prescribed fire plan calls for up to three initial dormant season burns per management unit on a 1-2 year rotation, followed by the implementation of growing season burns on a 3-5 year rotation into perpetuity. The planting plan depicts longleaf pine planting densities based on target ecological community types, soils, and elevation. Longleaf planting would take place after thinning operations and at least one application of prescribed fire have occurred. The hydrologic restoration plan includes a number of related activities, including the installation or improvement of low water crossings and culverts, the re-routing of water from major interior ditches to historic flow ways, the restoration of former stream courses, removal of fill from historic floodplains, the reconnection of severed wetland systems, ditch back filling and plugging, and road removal. Approximately 47 low water crossings are planned to restore more natural hydrologic conditions to streams and flowing wetlands (linear wetlands which typically have flowing surface waters). Overall, approximately 85,500 linear feet of stream and major ditch work is planned (roughly 56% directly related to stream and flowing wetland restoration). This linear estimate does not include enhancements resulting from road and roadside ditch removal, or the upstream and downstream effects of low water

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crossing installation and associated hydrologic improvements. Roughly 42,000 linear feet of road retirement and removal (upland to wetland restoration) is also planned. An additional 105,000 linear feet of stream and flowing wetland surface waters would be preserved and indirectly enhanced by surrounding mitigation activities and long-term ecosystem management. The extensive pine thinning planned for the site would also provide hydrologic enhancement to wetlands across the entire mitigation area, by reducing evapotranspiration, which has been unnaturally increased by intense pine cultivation. Measures would be taken to control invasive exotic plant species, and feral pigs. Wildlife management on the site would primarily consist of passive habitat enhancement and preservation achieved by thinning; prescribed fire; planting; retention of cypress, hardwoods, cabbage palms, and standing dead trees and snags; hydrologic restoration; road removal; exotic control; protection and enhancement of isolated wetlands and streams; etc. Feral pig management would additionally be considered a direct wildlife enhancement activity, since feral pigs both prey upon and compete with native wildlife. Wildlife species expected to benefit from the mitigation activities described above include: gopher tortoise and various associated species including the Eastern indigo snake, Florida black bear, various wading birds, bald eagle, and flatwoods salamander. Approximately 40 small dump sites have been documented in the mitigation area, which consist mainly of "white goods" such as washers, dryers, refrigerators, as well as automobile scraps, old tires, construction debris, etc. The material dumped at these locations would be removed and properly disposed of at the onset of mitigation activities.

The proposed mitigation plan includes performance standards for various components of the plan. The standards provide characteristics and measures to be used to judge whether or not the goals of the mitigation plan have been achieved or are tending toward success. Major categories of performance standards include landscape level standards, ecological community standards and hydrologic standards. Ecological community standards are further separated by groups of related community types, and integrate mitigation activities such as thinning, planting and prescribed fire.

Baseline and post-mitigation implementation monitoring would be required. Qualitative baseline monitoring has already been conducted at roughly 200 randomly located field stations in planted pine areas. Another roughly 800 qualitative field stations associated with high quality wetlands, drainage structures, roads, ditches, streams, exotic species, listed species, dump sites, etc. have also been completed. Thirty-five baseline and post-mitigation quantitative monitoring stations are proposed. Quantitative monitoring will entail the use of large fixed field plots (50m x 20m) or transects (100m) and repeated quantitative measures of: (1) canopy and subcanopy tree density, basal area, species composition, and individual tree size (diameter at

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breast height); (2) woody shrub percent cover, height, and species composition; and (3) groundcover percent cover, species composition, and species richness/diversity. Groundcover parameters would be assessed in a minimum of 10 1-m² replicate quadrats within each larger field plot/transect. Repeated photo-points would also be recorded at each quantitative station. Peizometers or staff gauges would also be placed at strategic locations to record water table and surface water levels before and after mitigation implementation. Baseline quantitative vegetation monitoring will take place during fall (September-November) prior to the onset of mitigation activities across most of the site. Following mitigation implementation, quantitative monitoring is proposed annually for the first 5 years. Assuming that the monitoring stations are trending toward the performance standards by the end of five years, annual monitoring would cease, and monitoring would be staggered every 5 years through 20 years to track the monitoring stations as they reach maturity and to guide long-term management. Beyond 20 years, monitoring would take place every 10 years to support long-term management of the site. In addition to ground-based monitoring, vertical aerial photography would be acquired and photo-interpreted 5, 10 and 20 years after the onset of mitigation. Afterwards, aerial photography will be acquired and photo-interpreted every 10 years afterward to support long-term management of the site.

Long-term management of the site would include regular reconnaissance and site security. Site security would include maintenance of locked access gates, signs, and possible use of fencing in some areas, if needed. Conservation easements would provide for perpetual legal protection of the mitigation area. The major long-term resource management activity would be continued use of prescribed fire, in perpetuity. This would include burning on a 3-5 year rotation, dominated by growing season burns, but allowing for a mix of timing on growing season burns and occasional dormant season burns. As longleaf pine plantings mature over time, some additional selective thinning of slash pine may also be performed periodically, on roughly a 10-year rotation within any particular management unit. Any thinning under long-term management would use passive or low impact methods and would not result in severe rutting. Supplemental plantings of longleaf or cypress/mixed hardwoods to augment natural recruitment may also occur in selected areas as needed. Continued monitoring and reconnaissance on the site would also be performed to detect any exotic species problems that may arise over time. It is expected that periodic localized treatment of exotics would be performed under long-term management of the site. Sustained management of feral pigs would also continue. Maintenance of hydrologic structures such as low water crossings would take place periodically, as would forest road management activities (including additional potential road retirement and removal sites). Passive and active wildlife enhancement would continue under long-term management. In addition, opportunities would likely exist for enhancement/restoration of wild turkey

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and quail populations on the site once habitat restoration and enhancement activities are in effect. In the longer term, the mitigation area could also potentially contribute to restoration and management of red-cockaded woodpecker, in coordination with other existing and planned natural resource management areas in the region. Finally, management of recreation activities, such as hiking, birding and hunting would be incorporated into long-term management of the mitigation areas.

The Corps would require financial assurances that the proposed compensatory mitigation would be implemented and maintained, as advised in Regulatory Guidance Letter No. 02-02, *Guidance Compensatory Mitigation Projects for Aquatic Resource Impacts Under the Corps Regulatory Program Pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act of 1899*. At its discretion the Corps may determine that financial assurance should be required for certain projects. The compensatory mitigation plan, offered by the applicant, would be the largest single compensatory mitigation effort required by any individual DA permit in Northwest Florida, if issued. The proposed airport project itself would impact more wetlands and other waters, than any other individual DA permit issued thus far in Northwest Florida. The mitigation plan was developed with a watershed approach to aquatic resource protection; it is complex and includes large areas of wetlands that are to be enhanced and restored. The plan requires extensive restoration and enhancement of streams and waterways. The plan requires that these large areas of enhanced and restored wetlands be maintained in their enhanced and restored states in perpetuity through a long-term management program, which includes periodic prescribed fires, exotic plant control and site security. The applicant provided to the Corps a written explanation and cost estimates, including copies of the spreadsheets used to calculate mitigation costs over the long-term, to demonstrate the amount of financial resources, which would be required to fund the implementation and long-term management of the proposed compensatory mitigation project. These financial assurances would be required by the Corps in the forms of a recorded deed of conservation easement in accordance with Florida Statute Section 704.06 that conveys a primary overriding perpetual conservation interest in the mitigation lands to the FDEP, a Trust Agreement, and an irrevocable Letter of Credit from a bank or financial institution guaranteeing that sufficient funds have been provided to fund the proposed compensatory mitigation activities. Other assurances may be required as necessary.

On May 10, 2007, the FWS forwarded a copy of an email from the Florida Chapter of The Nature Conservancy (TNC) in regards to the above referenced cost estimates. The FWS had requested the review by the TNC. Overall, the TNC opined that the estimates were within range, but suggested several changes. The applicant's consultants responded specifically to the TNC's four suggestions: 1) An increase for

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labor costs for longleaf planting is not warranted, since these areas would have extremely low planting densities; 2) The suggested expenditures for roller chopping is inappropriate, since roller chopping is not part of the mitigation plan; 3) Planting/seeding plans for groundcover are not currently included in the mitigation plan, but would be addressed in the future, if and when needed, based on monitoring results and adaptive management; and 4) Long-term prescribed fire and invasive treatment costs are accounted for in the long-term management costs. The Corps accepts and concurs with the consultant's responses.

Overall, the proposed mitigation plan would provide appropriate and practicable compensatory mitigation, which would more than replace functional losses to the aquatic environment associated with impacts to jurisdictional waters, including wetlands and streams, which would result from the construction and operation of Phase 1 of the proposed relocated airport within the West Bay watershed.

c. Findings: The proposed discharge of dredged or fill material at the specified site complies with the Section 404(b)(1) Guidelines with the inclusion of the following special conditions:

1. Implementation of the *Panama City – Bay County International Airport Relocation Mitigation Plan (October, 2006)*, attached "Document A" of this permit, is required to commence no later than the date upon which work authorized by this permit commences. The plan shall be in effect in perpetuity. The permittee's responsibility to complete the required compensatory mitigation as set forth in this special condition will not be considered fulfilled until the permittee has demonstrated mitigation success and has received written verification from the U.S. Army Corps of Engineers.

a. All preserved wetlands and uplands are to be maintained in perpetuity in their preserved and, if applicable, restored/enhanced, conditions as described by the plan.

b. The Corps' copy of all monitoring reports, as described in the plan, shall be submitted to the Regulatory Division, Enforcement Branch, Post Office Box 4970, Jacksonville, Florida 32232-0019.

2. Conservation Easement: The Permittee shall preserve in perpetuity the parcels comprising the approximate 9,609 acres of wetlands and uplands subject to the Mitigation Plan, as required in Special Condition 1 above, pursuant to the Conservation Easement and the Amended Conservation Easement, attached as

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“Document H,” and within the boundaries and locations, as shown on the attached Sheet 7 of 41.

a. These natural preserve areas will not be disturbed by any dredging, filling, land clearing, agricultural activities, planting, or other construction work whatsoever except as required or authorized by this permit. The Permittee agrees that the only future utilization of the preserved areas in question will be as a purely natural area.

b. In the event this permit is transferred, proof of delivery of a copy of the recorded conservation easement to the subsequent Permittee or Permittees shall be submitted to the Corps together with the notification of permit transfer.

c. The Grantee shall not assign its rights or obligations under this conservation easement except to another organization qualified to hold such interests under the applicable state and federal laws, including §704.06 Florida Statutes, and committed to holding this conservation easement exclusively for conservation purposes. The Corps shall be notified in writing of any intention to reassign the conservation easement to a new grantee and shall approve the selection of the grantee. The new grantee shall accept the assignment in writing and a copy of this acceptance delivered to the Corps. The conservation easement shall then be re-recorded and indexed in the same manner as any other instrument affecting title to real property and a copy of the recorded conservation easement furnished to the Corps

d. Any deviation from the established conservation easement cannot be performed without a modification to this permit instrument. The ability to modify or remove this conservation easement is neither implied nor guaranteed. If the conservation easement is removed for any reason, the Permittee shall provide appropriate mitigation to compensate for functional wetland loss.

3. Financial Assurances: Within 30 days of issuance of this permit, the permittee shall provide signed and finalized copies of the attached Standby Trust Fund Agreement, and the attached Irrevocable Letter of Credit from a bank or financial institution guaranteeing that sufficient funds have been provided to fund the proposed compensatory mitigation activities (Attached “Document B” and “Document C”).

4. Only clean fill and rock material compatible with existing soils (e.g., soil, rock, sand, marl, clay, stone, and/or concrete rubble) shall be used for wetland

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fills.

5. All wetlands and uplands on the 4,037-acre airport relocation project site, which are located outside of the Phase 1 construction boundary, shall not be disturbed by any dredging, filling, land clearing, or other construction work, but may continue to be managed through standard forest management operations and forestry Best Management Practices (BMPs), as has been practiced by The St. Joe Company on the site prior to issuance of this permit. In addition, wetland hardwoods and cypress will not be harvested for timber or other solely commercial purposes. The entire 4,037-acre site may be managed according to the attached *Wildlife Management Program, Panama City - Bay County International Airport Relocation - September 2006* (Attached "Document D") in order to minimize damaging bird and wildlife strikes to aircraft.

6. The permittee must fully implement the *Construction and Post-Development Water/Sediment Quality and Biological Monitoring Plan for the Panama City-Bay County International Airport Relocation*, attached "Document E." A copy of all required monitoring reports shall be provided to the Corps concurrently with the same monitoring reports required to be submitted to the FDEP. The Corps' copy of all monitoring reports, as described in the plan, shall be submitted to the Regulatory Division, Enforcement Branch, Post Office Box 4970, Jacksonville, Florida 32232-0019.

7. *Endangered Species - See Paragraph 10.e below for text of this special condition.*

8. Reporting Address: All reports, documentation and correspondence required by the conditions of this permit shall be submitted to the following address: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232. The Permittee shall reference this permit number, SAJ-2001-5264 (IP-GAH), on all submittals.

9. Commencement Notification: Within 10 days from the date of initiating the authorized work, the Permittee shall provide to the Corps a written notification of the date of commencement of work authorized by this permit.

10. Erosion Control: Prior to the initiation of any work authorized by this permit, the Permittee shall install erosion control measures around all work areas to prevent the displacement of fill material. Immediately after completion of the final grading of the land surface, all slopes, land surfaces, and filled areas

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adjacent to wetlands shall be stabilized using sod, degradable mats, or a combination of similar stabilizing materials to prevent erosion. The erosion control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.

11. As-Builts: Within 60 days of completion of the authorized work or at the expiration of the construction window of this permit, whichever occurs first, the Permittee shall submit as-built drawings of the authorized work and a completed As-Built Certification Form (pages 13 and 14 of this permit instrument) to the Corps. The drawings shall be signed and sealed by a registered professional engineer and include the following:

a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawing should show all "earth disturbance," including wetland impacts, water management structures, and any on-site mitigation areas.

b. List any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the As-Built Certification Form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the U.S. Army Corps of Engineers.

c. The Department of the Army Permit number.

d. Include pre- and post-construction aerial photographs of the project site, if available.

12. Record Permit: The Permittee shall record this permit with the Clerk of the Circuit Court, Registrar of Deeds or other appropriate official charged with the responsibility of maintaining records of title to or interest in real property within the county of the authorized activity. The signed and finalized documents as described in Special Condition 3 (Financial Assurances) above shall be attached to the permit, and recorded along with the permit. Within 90 days from the effective date of this permit the Permittee shall provide a copy of the recorded permit with the aforementioned attachments to the Corps clearly showing a

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stamp from the appropriate official indicating the book and page at which the permit with the aforementioned attachments is recorded and the date of recording.

10. Public interest review:

a. Public interest factors: The Corps reviewed all of the public interest factors. The Corps considers the public interest factors identified below as relevant to this proposal. The Corps considered both cumulative and secondary impacts on these public interest factors.

(1) Conservation: In consideration of the location of runways, site geometry and the mosaic of uplands and wetlands on the proposed project site, the on-the-ground footprint of the West Bay Site 8,400-foot alternative has been minimized to allow for the construction of the Phase 1 component of the proposed relocated PFN project, while avoiding and minimizing wetland impacts to the greatest extent practicable at the site. In addition, the applicant has proposed a comprehensive mitigation plan, which addresses direct and secondary impacts to wetlands and other aquatic resources at the project site. The plan was deliberately designed to conserve, protect, enhance, and restore natural resources to the maximum extent possible and follows a holistic, watershed approach consistent with that outlined in RGL 02-02; and would be consistent with the recently proposed rule for compensatory mitigation for losses of aquatic resources, which suggests that mitigation projects should be designed in consideration of entire systems and their constituent parts. RGL 02-02 also encourages applicants to provide mitigation projects, which include a mix of habitats, including wetlands and uplands that provide a greater variety of functions when viewed from a watershed perspective. The applicant's proposed mitigation plan would provide a significant and critical piece of the proposed WPBA under Bay County's West Bay Sector Plan. See paragraph 9.b(4)(a) above for additional information regarding the mitigation plan.

(2) Economics: A detailed analysis of the economic consequences of the proposed relocation of PFN is found in the FEIS in Sections 5.5.3 and 5.5.4. The airport relocation site comprises the Airport DSAP, which along with the West Bay DSAP, are the first two DSAPs adopted by Bay County, as part of the West Bay Sector Plan planning process. The proposed airport relocation would be a catalyst for development, economic expansion, and population growth in a relatively undeveloped part of Bay County. It can be expected that the tax base of Bay County would greatly increase, as would employment opportunities. The project would contribute to the National Economic Development (NED).

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(3) Aesthetics: The proposed airport relocation site comprises a landscape, the majority of which, including approximately half of the onsite wetlands, has been heavily impacted by past silvicultural activities. The majority of the impacted wetlands were former wet pine flatwoods communities with seasonal ponds, wet depressions, bayheads, cypress ponds, bogs and titi swamps interspersed within the flatwoods. Remaining wetlands not directly impacted by the planting of pines, include mixed forested wetlands, cypress swamps, and titi swamps. The aesthetics of the area would change due to the construction and operation of the proposed airport. The applicant has stated that aesthetically pleasing and environmentally sensitive landscaping would be used within the airport project boundary and associated access road. Proposed conservation lands forming the WBPA would be present along much of the north side of CR388, helping to shield the airport infrastructure and associated businesses from view. Likewise, the restoration of the virtual monoculture of pine plantation within the proposed mitigation area to the south of CR388 to pine flatwoods and savannas would provide scenery of native Northwest Florida.

(4) Wetlands: Descriptions and analyses of proposed wetland impacts that would result from the project and proposed mitigation to compensate for those impacts are found in the FEIS in Section 5.13 and in paragraph 9.b.(4)(b) above. The proposed mitigation plan would provide appropriate and practicable compensatory mitigation, which would more than replace functional losses to the aquatic environment associated with impacts to jurisdictional waters, including wetlands and streams, which would result from the construction and operation of the proposed relocated airport within the West Bay watershed.

(5) Historic and cultural resources: An analysis of historic and cultural resources for the proposed airport relocation site is found in the FEIS, Section 5.9. In addition, the Corps coordinated directly with the SHPO with confirmation from the SHPO that the proposed project would have no effect on historic properties (see paragraph 7.d.(4) above).

(6) Fish and wildlife values: Detailed analyses of potential impacts resulting from the proposed project to fish and wildlife values and mitigation for these impacts are found in the FEIS in Section 5.10. The proposed airport relocation site and mitigation areas are under intense pine silvicultural management, which alters wildlife and aquatic habitats, as a consequence of fire suppression, which allows a dominance of titi, inhibits the development of high quality groundcover, and slows nutrient recycling; and as a consequence of periodic site preparation, planting, and harvesting of pine trees, which prevent development of large trees (which could provide habitat structure), reduce

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groundcover diversity and abundance, disturb the substrate and soils, and alter local hydrology. Construction of the relocated airport would eliminate wildlife and aquatic habitats within the footprint of the project by the clear-cutting of trees and the grading and filling of uplands, wetlands and streams. Construction and operation of the relocated airport would have indirect impacts on wildlife and aquatic habitats in areas adjacent to the airport facility. These impacts to fish and wildlife and their habitats would be offset by the proposed compensatory mitigation plan (see paragraph 9b(4)(a) above) and other mitigative actions to be taken by the applicant (see FAA's ROD, Table 7). Overall, the proposed compensatory mitigation plan would provide a net benefit for fish and wildlife in the region. Many native wildlife species thrive in natural, fire managed pine flatwoods and savannas, which would be restored as part of the mitigation plan. Many threatened and endangered wildlife species also depend on these fire maintained systems including flatwoods salamander, gopher tortoise, eastern indigo snake, Florida pine snake, southeastern kestrel, and red cockaded woodpecker. Other threatened and endangered wildlife species that will benefit by the restoration and preservation of the mitigation area include Florida black bear, bald eagle, various wading birds, least terns, piping plover, snowy plover, and other shorebirds. Implementation of stormwater treatment to OFW standards, matching pre- and post-development discharge rates, and maintaining existing drainage patterns would help protect the water quality of Burnt Mill Creek, Crooked Creek and West Bay. Additionally, the preservation of roughly eight miles of the West Bay shoreline, plus substantial portions of several drainage basins flowing to the bay, will help protect fishery resources within West Bay. See below paragraphs 11 for EFH considerations and 10.e for additional ESA considerations.

(7) Floodplain values and flood hazards: Analyses of floodplain values and flood hazards are found in the FEIS in Section 5.14. The majority of the proposed airport relocation site is located in flood zone X, which are areas outside of the 500-year floodplain. Portions of the site proposed for development are mapped on FEMA Flood Insurance Rate Maps within flood zone A zone, where base flood elevations have not been determined. The Phase 1 project would have substantial floodplain encroachment, which would occur in flood zone A within the floodplains of Kelly Branch, Bear Branch and Morrell Branch. Approximately 207 acres of flood zone A would be impacted. Removal of vegetation and hardening of surfaces on uplands and wetlands filled for this project would reduce the onsite dampening effect, which vegetation and natural ground can have on stormwater flow and onsite absorption of stormwater. Though efforts have been made to locate components of the proposed facility to avoid impacts to floodplains, complete avoidance is not practicable given the location and configuration of streams and flowing wetland systems on the site. According to the conceptual stormwater management plan prepared by the applicant's consultants, and as defined by the FDEP's ETP process, floodplain compensation is not required, but the applicant

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has committed to design the stormwater management system to match pre-project discharge rates and outfall to existing discharge points to help ensure minimal impact on downstream flood elevations. One advantage to the proposed project is that the relocation of PFN would be moving the airport from its current location sitting within the Category 4 storm surge and FEMA flood Zone VE to a location outside of the storm surge and any V or VE flood zones. The proposed project with implementation of the wetland compensatory mitigation plan along with other mitigative actions by the applicant (as listed in the FAA's ROD, Table 7), including implementation of the stormwater management plan, as required by the FDEP, would minimize impact to floodplains and floodplain values.

(8) Land use: In 1999 Bay County, the applicant, and current landowners embarked on a sector planning exercise to comprehensively plan future land use for approximately 75,000 acres of land around and north of West Bay. The resulting West Bay Sector Plan is an integral part of the airport planning process. This planning effort took several years and has resulted in a comprehensive master plan, the center pieces of which are the relocated airport and protective conservation of over 40,000 acres around West Bay and many of its tributaries (the WBPA). Cumulative impacts that may occur due to the construction of the proposed airport have been addressed through this planning process by designating future land uses and development densities and preserving over one half of the planning area. Future land uses are proposed by the Sector Plan and officially adopted by Bay County through DSAPs. The Airport DSAP and West Bay DSAP have already been approved by Bay County. The Sector Plan also seeks to reduce cumulative impacts through clustering of development. Buffers along riparian corridors connect large tracts of conservation lands, additionally reducing cumulative impacts to the region. Without this planning effort, these 75,000 acres would likely have been subject to unplanned, piecemeal development, with similar unplanned, piecemeal mitigation, as has been the case throughout most of coastal Northwest Florida. Pursuant to 33 CFR 320.4(j)(2) the Corps considers responsibility for determining zoning and land use matters to rest with state, local and tribal governments, and will normally accept those decisions, unless there are significant issues of overriding national importance.

(9) Navigation: No existing navigation would be affected by the construction and operation of the proposed relocated airport, since the relocation site does not contain nor is located adjacent to navigable waters. Portions of the proposed mitigation areas include shorelines along West Bay, including areas of estuarine wetlands. The proposed mitigation plan and conservation easement to be placed over the mitigation lands, specifically prohibit the placing or construction of docks, piers or other water dependent structures.

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(10) Shore erosion and accretion: Construction and operation of the proposed relocated airport facility would not affect shore erosion and accretion, since the site does not contain nor is located adjacent to navigable waters. Shorelines within the proposed mitigation areas would be protected by 50-foot Special Management Zones adjacent to tidal creeks, tidal marsh, and West Bay to provide additional protection to these areas during tree thinning operations.

(11) Recreation: Both the proposed project site and the proposed mitigation areas are currently owned by St. Joe, and are in pine silvicultural production. St. Joe also currently leases portions of these lands to private hunt clubs. The proposed project would convert the project site to an operating airport, and thus essentially eliminate recreational uses on the site. The lands to be restored, enhanced, and protected under the mitigation plan include possibilities for recreational use, such as hiking, birding and hunting. Protecting water quality in the surrounding creeks and West Bay would also enhance recreation.

(12) Water supply: An analysis of water supply is included in the analysis of water quality section in the FEIS (Section 5.8). Potable water for the relocated airport facility would be provided by Bay County Utilities, but two storage tanks for potable water would be built on site to provide chlorine treatment and dependable water pressure to the airport facility. There is sufficient capacity of the water supply system to adequately meet future demands for the proposed project. Recycled water would be utilized for rental car washing, water conserving plumbing fixtures would be used throughout the facility, and landscaping would be xeriscaped. Water for landscaping would be drawn from onsite wells. It is not anticipated that withdrawal of water from these wells would adversely impact groundwater levels at or near other wells, which may be located in the vicinity of the relocated airport. Since the West Bay area is relatively undeveloped, additional potable water capacity may be required as the area develops. According to the FEIS (section 5.26.3.3) Bay County has committed to work toward providing potable water capacity for the West Bay DSAP area.

(13) Water quality: An analysis of the impact of the proposed project on water quality is found in the FEIS in Section 5.8. As described in paragraphs 9.a.(1) through 9.a.(5) above, impacts of the proposed project on water quality would be expected to be minimal in light of various mitigative actions, which would be required for permit issuance. Water quality certification was issued by the FDEP to the applicant on December 1, 2006. The applicant is required by the EMA to implement several Net Environmental Benefits, including that the stormwater management system would meet OFW criteria, even though stormwater would not be discharged into a designated OFW.

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(14) Energy needs: An analysis of the impact of the proposed project on energy needs is found in the FEIS in Section 5.18. Gulf Power Company has stated that they will be able to provide electrical power to meet demands for the proposed project. The proposed project would employ natural gas, which would be provided by TECO Peoples Gas. The project would result in longer travel distance for most current air travelers than the current PFN site, thus increasing fuel consumption.

(15) Safety: Safety of the air-traveling public has been a major factor in the development and evaluation of the proposed airport relocation project. Runway length and runway safety areas at the existing PFN facility are designed below current FAA safety standards. Relocating the airport would benefit the safety of the public utilizing PFN. As discussed in the FEIS, and specifically addressed in Section 3.13.3.2, the proposed relocated airport would allow for safety design criteria to be fully integrated into the planning of a relocated airport, and development at the proposed site would address and meet the goals identified by the FAA in the National Plan of Integrated Airport Systems (FEIS, Section 2.5.1), particularly in terms of meeting FAA standards for safe and efficient operations.

(16) Food and fiber production: The proposed airport relocation site and mitigation areas have been used for the past several decades for the production of pine trees, as a source of pulp wood for paper making and other forest products. Pine trees will continue to be managed and harvested, or otherwise removed, in accordance with the proposed mitigation plan in the mitigation areas; but over time, as the mitigation plan is implemented, harvesting of trees for commercial uses would be phased-out. As for the proposed airport relocation site itself, if a permit is issued, areas currently used for the production of forest products would be converted to an airport facility.

(17) Considerations of property ownership: The proposed project is a public, governmental action. Lands proposed for both the relocated airport site and the mitigation areas are owned by St. Joe. St. Joe has agreed to voluntarily donate and transfer ownership of the airport site to the applicant, and to place a conservation easement over the mitigation areas to encumber those lands in perpetuity for compensatory mitigation for the proposed project. The project would have no adverse impact on the property rights of others, but would allow the applicant to utilize the property to conduct an economic enterprise for the benefit of the surrounding community. The project would likely have a positive effect on property values in the community through the enhancement of community cohesion, the provision of needed community services, and the economic stimulus provided by a relocated airport. The West Bay Sector Plan and associated DSAPs would provide housing opportunities for

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residents as the population of Bay County continues to expand, in a way that would avoid negative interactions between residential areas and the relocated airport. The enhancement, restoration and preservation of the 9,609 acres of mitigation land would protect and enhance the public's interests in the protection of the natural environment.

b. Describe the relative extent of the public and private need for the proposed structure or work: Public needs and benefits include the construction and operation of an airport facility that would meet FAA safety and operational requirements to provide the public with a safe and efficient air transportation system. The proposed airport relocation would be a catalyst for development, economic expansion, and population growth in a relatively undeveloped part of Bay County. It can be expected that property values, and therefore, the tax base of Bay County would greatly increase, as would employment opportunities. The airport planning process was an integral part of the multi-year development of the approximately 75,000-acre West Bay Sector Plan, which resulted in a comprehensive master plan, the center pieces of which are the relocated airport and protective conservation of over 37,000 acres around West Bay and many of its tributaries (the WBPA), and the compensatory mitigation plan associated with 9,609 acres of the area designated within the WBPA.

c. Describe the practicability of using reasonable alternative locations and methods to accomplish the objective of the purposed work where there are unresolved conflicts as to resource use: Numerous respondents to the public notice objected to the project, and stated that other, less damaging alternatives are available to the applicant. But as shown in Section 8 above, the West Bay Site 8,400-foot runway alternative (Phase 1) is the only alternative that would allow development of air transportation facilities, which would meet FAA safety and design standards, which could operate and grow to allow future opportunities for expansion of air transportation services, including international charter operations, and which would be compatible with local and regional planning efforts within the region centered in Bay County, Florida. In addition, the proposed Phase 1 project is considered the least environmentally damaging practicable alternative because it is the only reasonable, feasible and practicable alternative, which would meet the project's overall purpose. The project has been minimized to that required to develop a fully functional and operational international airport for commercial and civilian use; and the project would include mitigation to compensate for environmental impacts to waters of the United States, including wetlands.

d. Describe the extent and permanence of the beneficial and/or detrimental effects, which the proposed work is likely to have on the public, and private uses to which the area is suited: Overall, an existing landscape of extensive areas of silvicultural pine plantations in significantly altered uplands and wetlands, intermixed with areas of relatively

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undisturbed cypress domes, titi swamps and mixed forest/shrub swamps, would be replaced by an operational, international airport. Detrimental impacts associated with the loss of upland and wetland values, such as habitat and green space, would be permanent in the construction areas associated with Phase 1 of the proposed project. Ecological benefits associated with the compensatory mitigation plan, in which wetlands and uplands would be restored, preserved and maintained in perpetuity, would be permanent.

e. Threatened or endangered species: An analysis of the potential impacts of the proposed project on threatened or endangered species is found in the FEIS in Section 5.12. The FAA, as the lead federal agency, formally consulted with the FWS under Section 7 of the ESA. The FAA prepared and submitted a final Biological Assessment (BA) to the USFWS on August 30, 2005. On October 3, 2005, the USFWS issued its BO for the proposed project. The Corps, as a cooperating agency under NEPA and ESA regarding this project, concurs with both the BA and the BO. Based upon an analysis of potential direct and indirect impacts, which the project could potentially have on listed species, the FWS in the BO concurred with the FAA's BA, that the only species, which the project would "likely to adversely affect," was the flatwoods salamander (*Ambystoma cingulatum*). The BO stated that the proposed project would not jeopardize the continued existence of the species, and identified Terms and Conditions to minimize the potential incidental take of the flatwoods salamander. The proposed project will not jeopardize the continued existence or critical habitat of any threatened or endangered species with the inclusion of the following special condition, which makes the authorization under the Corps permit conditional upon the applicant's compliance with the BO's mandatory terms and conditions, which would implement the reasonable and prudent measures, that are associated with the "incidental take" for *A. cingulatum*:

7. This Corps permit does not authorize you to take an endangered species, in particular the flatwoods salamander (*Ambystoma cingulatum*). In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA section 10 permit, or a biological opinion (BO) under ESA section 7, with "incidental take" provisions with which you must comply). The U.S. Fish and Wildlife Service (FWS) BO, attached "Document F," contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. Your authorization under the Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed

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species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your Corps permit. The FWS is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA.

Letters received on October 19, 2006 and January 30, 2007 from the NRDC and Defenders of Wildlife, requested that the Corps and the FAA reinstate formal consultation under the ESA with the FWS, and prepare a supplemental EIS under NEPA in response to reports, that the federally listed, endangered species, Ivory-Billed Woodpecker (IBW) had been detected in the bottomland forests of the Choctawhatchee River, approximately 20 miles from the proposed project site. By letter dated March 2, 2007, the FAA, as the lead federal agency for this project under the ESA, coordinated with the USFWS, regarding the purported sightings and evidence of IBW in the Choctawhatchee River bottomland forests. A BA, which evaluated the potential impacts of the proposed project on IBW, was prepared by the FAA's consultants and enclosed with the letter. The FAA requested that the FWS agree there is no need to reinstate consultation under Section 7 of the ESA now because the presence of IBW has not been confirmed in the area, and to consider the BA sufficient for concluding the impacts associated with the relocated airport may affect, but not likely to adversely affect the IBW, if its existence is subsequently confirmed by the FWS. The FWS responded in a letter dated April 12, 2007, that the FWS wishes to appropriately respond to the FAA's request, but FWS was uncertain as to how FAA wanted to proceed, since the FWS perceived that the FAA had requested two opposing responses. On April 25, 2007 the FAA sent a letter clarifying the agency's position regarding the proposed project and IBW: 1) the relocation of PFN "may affect but is not likely to adversely affect" the IBW, 2) that discountable effects are reasonably expected to result from the proposed relocation of PFN based on the conclusions supported in the IBW BA and that therefore, 3) the FAA's consultation with the FWS on this matter is properly concluded at this time. The FWS responded by letter dated May 8, 2007 and stated: "Based on what we currently know of the habitat requirements of the IBW, the environmental baseline conditions of the Action Area, the potential for secondary and indirect effects of a new airport, and the effects of noise on birds, the Service concurs that the project is not likely to adversely affect the IBW, and that any effects are likely to be insignificant in that they would not reach the scale where take would occur." The letter also stated, "This concludes consultation requirements of the Act". The Corps, as a cooperating agency under NEPA and ESA regarding this project, concurs with both the BA and the determination, as stated in the FAA's April 25, 2007 letter, and confirmed in FWS's May 8, 2007 letter. In addition, Dr. Geoffrey Hill, the ornithology professor at Auburn University, who is the leader of the research effort, which found the evidence referenced above regarding the potential presence of IBW in the Choctawhatchee River floodplain,

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stated in a letter to the NFWMD, dated January 9, 2007: “At present, I have seen no evidence that the proposed airport development would negatively impact Ivory-billed Woodpeckers living in swamp forests along the Choctawhatchee River.”

f. Corps wetland policy: The proposed wetland alterations for Phase 1 of the proposed relocated PFN airport project, are necessary to realize the overall project purpose, which is the development of air transportation facilities, which would meet FAA safety and design standards, which could operate and grow to allow future opportunities for expansion of air transportation services, including international charter operations, and which would be compatible with local and regional planning efforts within the region centered in Bay County, Florida. Compensatory mitigation for impacts to wetlands and streams would be required in the form of restoration and enhancement of wetlands, streams, and uplands on a total of 9,609-acre mitigation area comprised of wetlands, streams and uplands, which have been heavily impacted by ongoing silvicultural operations. The proposed project with the proposed the mitigation, which would be required to compensate for proposed project impacts, would on balance result in minimal adverse environmental impacts. The benefits of the project would outweigh the detrimental impacts. Therefore, the project is in accordance with the Corps' wetland policy. See section 9 above for application of the 404(b)(1) guidelines to the proposed project, as required by the Corps' wetland policy.

g. Cumulative and secondary Impacts: The Corps concurs with and incorporates by reference the secondary and cumulative effects analysis for the West Bay Site Alternatives (for Phase 1 proposed project), as found in the FEIS, Vol. I, Section 5.26, and in the FAA's ROD, Section 9.22. Additional Corps analysis is found above in paragraph 9.a.(7)/(8).

11. Essential Fisheries Habitat (EFH): Analysis of EFH and the proposed project is found in the FEIS in Section 5.10.4. The public notice requested initiation of EFH consultation, as required by the Magnuson-Stevens Fishery Conservation and Management Act, and stated that the Corps' initial determination was that the proposed action would have a minor adverse impact on the EFH or Federally managed fisheries in West Bay (see paragraph 7.d.(3)). In a letter to the FAA, dated July 13, 2005, the NMFS stated that the FAA had provided an EFH assessment for the proposed project, and that the NMFS had no EFH conservation recommendations to provide. The NMFS also stated that it did not anticipate having any additional comments, if the West Bay Relocation alternative is chosen and the FEIS appropriately addresses project impacts. The NMFS did not provide comments in response to issuance of the FEIS.

12. Public Hearing Evaluation: On December 8, 2004 the Corps issued a public notice

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to inform the public that a public information workshop and public hearing on the DEIS would be held by the FAA, as lead agency, and the Corps, as a cooperating agency, on January 11, 2005 in Panama City, Florida. The public notice disclosed that the Corps had received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act for the proposed relocation project, and that a separate public notice would be published specifically pursuant to the Corps' evaluation of the permit application. On January 11, 2005, the FAA's and the Corps' co-sponsored public information meeting and public hearing were held. The proceedings of the public hearing and verbal comments from the public, which were recorded by court reporters, and written comments collected at the hearing, were compiled by the FAA for review by the FAA and Corps. The FAA and the Corps fully considered the comments received at the public hearing. The responses to these comments are included in the FEIS (Vols. III, IV and V). Requests for a public hearing were received in response to the public notice (issued April 25 and May 2, 2005) for the DA permit application, on May 27, 2005 from Ms. Leslie Blackner on behalf of the Northwest Florida Group Sierra Club, Clean Water Network Southeast Region, Panhandle Citizens Coalition, Citizens for the Bay, and Floridians for Environmental Accountability and Reform; on June 1, 2005 from Mr. Frank Gorham, President of Friends of PFN, Inc.; on May 30, 2005 from Mr. Donald R. Hodges; and from July through October, 2006, approximately 596 form letters from participants in the NRDC's second mass letter campaign regarding the proposed project. The above referenced requests for a public hearing were received after the public hearing held in January, 2005. Since a public hearing, in which the Corps was a co-sponsor, has already been held regarding this project, and since there is sufficient information available to evaluate the proposed project, the request for an additional public hearing is denied.

13. Corps analysis of comments and responses: All comments received in response to the public notice have been reviewed and considered, including responses to the comments from the applicant's consultants. Approximately 109 responses, of which approximately 86 were copies of a form letter, were received in support of the proposed project. Rationales for support of the proposed project included: (1) a new airport would provide modern facilities, long runways and large overrun areas to safely accommodate a wide range of aircraft; (2) increased air safety; (3) attract competitive air service; (4) allow flexibility for expansion; (5) remove the current airport out of an area, which is becoming increasingly congested; (6) the project is important for regional economic development and would serve as a catalyst to attract new industry and high-paying jobs to the region; (7) there were more than twenty public meetings that lead to the development of the 74,000-acre West Bay Sector Plan, which calls for the protection of almost 37,000 acres of land surrounding West Bay; (8) the project and the West Bay Sector Plan is an example of wise growth management, use of natural resources, and

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long-range vision for the community; (9) project is consistent with the Detailed Specific Area Plans developed for the project area; (10) the current airport site is problematic due to its location on North Bay and Goose Bayou, (11) expansion at the existing site would impact the bay and/or many adjacent residences and businesses; (12) existing site is susceptible to flooding and other damage from serious storms; (13) the proposed site and the West Bay Sector Plan would provide an airport site free of incompatible land uses now and in the future; and (14) the proposed mitigation plan would protect almost 10,000 acres and would improve the drainage basins of Burnt Mill Creek and Crooked Creek and improve habitat value, wildlife usage and water quality throughout the drainage basin. Comments received in response to the public notice, which raised concerns, expressed opposition, or otherwise objected to the proposed project are addressed below. In some cases the Corps responses incorporate information received from the applicant's response to the comments. Also addressed below are comments to the FEIS from the NRDC dated July 3, 2006, which were specific to the Corps' review under the Section 404(b)(1) guidelines, and not responded to in the FAA's ROD; and comments and objections received after the end of the public notice period, as follows: 1) Letters dated October 19, 2006 and January 30, 2007 from the NRDC and Defenders of Wildlife regarding the Ivory-Billed Woodpecker, 2) Letters from Mr. Nichols dated October 26, 2006, December 20, 2006, and February 13, 2007, 3) Two mass letter campaigns sponsored by the NRDC, 4) Letter dated April 9, 2007 from the NRDC regarding proposed new highways in the vicinity of the proposed relocated airport, and 5) Letter dated June 21, 2007 from the NRDC requesting clarification regarding the acreage of cypress on the proposed relocation site, along with a copy of an affidavit submitted to the United States Court of Appeals for the Second Circuit by the NRDC, Defenders of Wildlife and Friends of PFN in their challenge to the FAA's ROD for this project. Ms. Shepherdson requested that the affidavit be reviewed as part of the Corps' ongoing evaluation of the application for a 404 permit for the proposed project.

a. EPA: Comments from the EPA are addressed in paragraph 7.d.(1) above. There are no remaining unresolved issues from the EPA.

b. FWS: By email dated May 8, 2007 the Corps requested that the FWS confirm that the FWS and the Corps are in concurrence regarding respective agency responsibilities under ESA and FWCA in regards to the proposed relocation of the Panama City-Bay County International Airport. The FWS responded by email dated May 15, 2007 that the FWS concurs that all ESA obligations between our agencies have been met; that in accordance with the 1992 Memorandum of Agreement between the Department of the Interior and the Department of the Army, the

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FWS did not request higher level review of the permit application; and therefore the FWS's email response concludes all necessary coordination on this project. There are no remaining unresolved issues from the FWS.

c. NMFS: Comments from the NMFS are addressed in paragraphs 7.d.(3) and 11 above. There are no remaining unresolved issues from the NMFS.

d. SHPO: Comments from the SHPO are addressed in paragraphs 7.d.(4) and 10.a.(5) above. There are no remaining unresolved issues from the SHPO.

e. Comments from Ms. Leslie Blackner on behalf of the Northwest Florida Group Sierra Club, Clean Water Network Southeast Region, Panhandle Citizens Coalition, Citizens for the Bay, and Floridians for Environmental Accountability and Reform, which are relevant to the evaluation to the proposed project, have been edited and condensed for clarity and to reduce redundancy, and are addressed below:

(1) Project will result in significant and irreparable direct, secondary and cumulative impacts to aquatic resources and must be subjected to rigorous application of the Section 404 (b)(1) guidelines. Project is not acceptable, since there are practicable alternatives. Project is contrary to the public interest and is not consistent with the CWA.

Corps response: The Corps has reviewed the proposed project in light of its responsibilities under NEPA, the CWA and other regulatory requirements, and has determined that the proposed project: 1) to be the least environmentally damaging practicable alternative (see Section 8 above), 2) complies with the section 404(b)(1) guidelines (see Section 9 above), 3) is in accordance with the Corps' wetland policy (see paragraph 10.f above), and 4) is not contrary to the public interest (see analysis in Section 10 above and conclusion in paragraph 14.e below). Secondary and cumulative impacts are specifically addressed in paragraphs 9.b(7/8) and 10.g above.

(2) Corps should be skeptical of consulting work performed by Kimley-Horn.

Corps response: Comment noted.

(3) Clean Water Act does not allow for a "conceptual permit."

Corps response: Under Florida law, conceptual permits are issued by agencies of the State of Florida. The CWA does not provide for the issuance of a conceptual permit. In practice, however, the term has been used by the Corps in the

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descriptive sense to discuss permits for long-term or multi-phase projects. The Corps with the applicant's concurrence chose to disclose and evaluate in general terms the proposed, ultimate, multi-phased, 50-year conceptual PFN relocation project, and evaluate the Phase 1 portion of the 50-year conceptual plan for possible authorization by a 50-year individual Department of the Army permit. The Phase 1 project is a "stand alone" component of the more speculative, multi-phase, conceptual 50-year project, and is not dependent on those future, proposed phases to operate. The Corps would evaluate in detail, any future individual construction phases, as they are proposed by the applicant, over the life of the conceptual project. Authorization for the construction of subsequent phases, as modifications to the 50-year permit, would require substantial additional detail and NEPA review, either as supplemental EISs or EAs and evaluation under the CWA, the Section 404(b)(1) guidelines, the public interest review and other requirements of the Corps regulatory authorities. These evaluations would include minimization of impacts and adequacy of proposed compensatory mitigation within the context of the conceptual project.

(4) How can the Corps properly assess impacts when it has no clear understanding of those impacts.

Corps response: The proposed project's impacts on the environment, particularly on the aquatic environment, have been described and evaluated in detail, as documented by the FEIS, the FAA's ROD, this RODSOF, and the administrative record for this Section 404 permit application evaluation.

(5) The public notice did not provide a description of the quality and function of onsite wetlands.

Corps Response: 33 CFR Part 325.1(d)(9) states that: "An application will be determined to be complete when sufficient information is received to issue a public notice.....The issuance of a public notice will not be delayed to obtain information necessary to evaluate an application." The public notice for this project provided the level of information as appropriate pursuant to 33 CFR Part 325.3(a), including information regarding the existing conditions of the project site, including descriptions of wetlands located on the site.

(6) Much of the jurisdictional wetlands qualify as mature palustrine forested wetlands that are recognized by NMFS as public trust resources that provide water quality functions that are essential to maintaining viable fishery resources, and that hydric pine flatwoods are deemed very valuable by resource agencies, citizens and nature.

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Corps response: The Corps concurs, as stated in 33 CFR Part 320.4(b) that most wetlands constitute a productive and valuable public resource, the unnecessary alteration or destruction of which should be discouraged, and that no permit will be granted to alter such wetlands, unless the benefits of the proposed alteration outweigh the damage to the wetland resource. In this case the Corps has determined that the benefits of the proposed project would outweigh the detrimental impacts (see paragraph 10.f and response to comment 13.e(1) above).

(7) Project would destroy Burnt Mill Creek and Crooked Creek and all functions of these waterbodies will be lost forever, and thus degrade West Bay, St. Andrew Bay and Gulf of Mexico.

Corps response: The proposed airport site is located over one-half mile from the main bodies of Crooked Creek and Burnt Mill Creek. Three named streams (Bell Bay Branch, Bear Bay, and Kelly Branch), which feed Crooked Creek would be directly impacted by the airport, if fully built-out, as conceptually planned. Within the proposed airport footprint, Bell Bay Branch has been heavily impacted through past silviculture activities and alterations, including planting of slash pine in place of the natural riparian vegetation and direct channelization. On the proposed project site, Bell Bay Branch is essentially a ditch, rather than a natural stream channel. Bear Bay is not a well defined stream; rather it is a flowing wetland with a highly braided channel in places, and lacking a defined channel in other places. Bear Bay has not been altered by silviculture to the same extent as Bell Bay Branch, but fire suppression and historic logging of hardwoods and cypress has allowed titi to dominate this system. Additionally, the upstream reaches of Bear Bay have been ditched and now to ditches that drain to Kelly Branch. Kelly Branch is a relatively natural stream on the western and southern portions of the proposed project site with the lower roughly 5,000 feet of stream within the area of future, conceptual phases. Portions of Kelly Branch north of this area, within earlier project phases, including the Phase 1 project, have been previously altered through channelization, ditching, and other silvicultural activities. The upper reaches of Kelly Branch on the project site are essentially functioning as ditches. Phase 1 impacts to these streams are largely confined to the low quality stretches of Bear Bay and Kelly Branch. Direct impacts to the higher quality portions of these systems have been minimized through elimination of the original western-most phase of the project (50+ years) during the state permitting process (removing impacts to roughly 10,000 linear feet of streams). Existing flow ways of these creeks would be maintained as discharge conveyances for stormwater from the airport site, voluntarily treated to OFW standards. Impacts to these streams would furthermore be mitigated through hydrologic restoration of streams and flowing wetlands within the mitigation area. Even if the project were

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built, as conceptually designed over the next 50 years, only roughly 3.7% of the Burnt Mill Creek drainage basin and 13.9% of the Crooked Creek drainage basin would be directly impacted. The project site does not directly occur on or adjacent to either creek. Treating stormwater to OFW standards on a voluntary basis, matching pre- and post-development stream discharge rates at outfall locations, and maintaining existing drainage patterns would minimize indirect impacts to these two creeks. Additionally, riparian buffers and other conservation areas planned throughout the watershed in the West Bay Sector Plan would help protect the integrity of the creeks. Finally, baseline, construction, and post-development monitoring of water quality, sediment quality, and biotic communities would help ensure that the integrity of Crooked Creek, Burnt Mill Creek, and West Bay would be protected (and thus St. Andrew Bay and the Gulf of Mexico in terms of this project), and would be used in the evaluation of future phases, if any are proposed.

(8) The site is located within the St. Andrew Bay watershed, which is a Northwest Florida Water Management District (NFWFMD) Surface Water Improvement and Management (SWIM) program priority area.

Corps response: The designation of a receiving water body as a SWIM priority water body in itself is not a valid reason for a permit denial as Section 404 permits have been issued for impacts to waters of the U.S. within the watersheds of all of the estuaries in the Florida panhandle, which are all within SWIM priority areas. The NFWFMD did not provide comments or objections to the Corps in response to the public notice for this project. Overall, the proposed project is consistent with the goals and objectives of the St. Andrew Bay SWIM plan. Objectives of the SWIM plan, which would be met include: 1) the avoidance of seagrass and surface water impacts (which would have occurred with several runway extension alternatives at the existing airport site), 2) the voluntary implementation of stormwater treatment design to OFW standards to protect water quality within West Bay, 3) implementation of BMPs during construction, 4) riparian buffers along Burnt Mill and Crooked Creeks as provided in the West Bay Sector Plan and the associated DSAPs, and 5) the restoration and preservation of 9,609 acres within the St. Andrew Bay watershed as part of the proposed mitigation plan, including the preservation of over 800 acres of tidal marsh. Further, under current zoning, approximately 870 units could be developed within the mitigation area. Development of this area could include loss of wildlife habitat, dredge and fill of wetlands, hundreds of septic tanks, and a multitude of piers/docks. The commitment of these lands to mitigation removes these units, and their corresponding potential water quality impacts, from the West Bay watershed.

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(9) The public notice minimizes the value of wetlands on the site by having stated that a significant portion of onsite wetlands have been impacted by past silvicultural operations. The majority of wetlands in Florida are disturbed in some aspect, and that project site wetlands should still be protected under CWA.

Corps response: The level of detail for the description of onsite wetland conditions in the public notice was appropriate (see paragraph 13.e(5) above). The majority of the site (approximately 3,074 acres of the 4,037-acre project site and approximately 961 acres of the approximately 1,915 acres of wetlands on the project site) has been directly impacted by silvicultural operations. Such operations have resulted in sizable losses to wetland functions and values, both directly and indirectly. The Corps concurs that wetlands throughout Florida are generally disturbed in some respect, if only in the reduction in the number of natural fires. The wetlands on the site, which are under the jurisdiction of the Corps, are fully regulated by the Corps under the CWA, and their proposed alteration is the subject of full evaluation through the EIS process under NEPA, and the Section 404 permit evaluation process, as documented in this RODSOF.

(10) The project site area was designated "Wildlife Management" by the Florida Game and Fresh Water Fish Commission in 1991, and as an area important to meet minimum goals, as found in the *Closing the Gaps in Florida's Wildlife Habitat Conservation System* (1994), for declining wildlife species and rare plant and animal communities, and that an EPA web site shows area to have relatively high quality waters and a healthy functioning watershed, which should be protected.

Corps response: The 1983 map, which the commenter referenced, labels the area as "Point Washington Wildlife Management Area." This designation reflects a wildlife management area that was the subject of a joint agreement between St. Joe (the current landowner) and the Florida Fish and Wildlife Conservation Commission for public hunting activities. The proposed airport relocation site and the surrounding lands are no longer designated as a wildlife management area. *Closing the Gaps in Florida's Wildlife Habitat Conservation System*, identifies areas, which are important to meet minimum conservation goals, as Strategic Habitat Conservation Areas (SHCAs). No SHCAs are located in the vicinity of the proposed relocation site. The nearest SHCA to the project site is approximately 11 miles to the northwest in Walton County. The Corps agrees that St. Andrew Bay is a relatively healthy watershed with good water quality, and should be protected. See paragraphs 9.a(5), 9.a(7)/(8), 9.b(4)(b), and 13.e(6) & (7) above, regarding mitigative actions that would be taken to protect the watershed and its receiving waters.

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(11) Proposed project is of the same sort, which “ruined” South Florida, and that the proposed project is not water dependent, that 40 CFR 230.10(3) specifies that the discharge of dredge and fill material into waters of the U.S. is not permitted for non-water dependent activities, and that practicable alternatives that do not involve special aquatic sites are presumed to be available, unless clearly demonstrated otherwise.

Corps response: The Corps agrees that the project is not water dependent (see paragraph 9.b(1)); however, it has been demonstrated in Section 9 above, that the proposed project complies with the Section 404(b)(1) Guidelines.

(12) Project would set a precedent for others to seek dredge and fill permits in the same locale causing a cascade of future projects.

Corps response: The Corps agrees that the proposed project, if constructed, would act as a catalyst for economic development in the West Bay area, and such development would result in an increase in the number of permit applications for work in wetlands in an area, that up to this time, is relatively undeveloped (see paragraph 9.a(7)/(8)). However, as also stated in paragraph 9.a(7)/(8): “Minimization of and mitigation for the direct, secondary and cumulative impacts on the aquatic environment that would result if the proposed project were built include: 1) development by Bay County of the West Bay Sector Plan, and the accompanying Airport DSAP and West Bay DSAP, which identify appropriate locations of the proposed relocated airport and specified development areas, provision for appropriate conservation and mitigation areas, identification of the WBCA, and potential zoning changes to guide future development; and 2) creation of the 9,609-acre compensatory mitigation area, in which wetlands, uplands and streams would be restored and preserved. In addition, any subsequent development in the West Bay area, whether induced by the proposed airport relocation project or not, if determined to require authorization from the Corps, would be subject to the Corps regulatory review and analysis, including analysis of direct, secondary and cumulative impacts on the aquatic environment.” Projects, which fail the Corps’ regulatory permit application review, would not be permitted.

(13) Public interest will not be served by permitting of the proposal:

Corps response: The standard that must be met under the public interest review is that permitted activities are not contrary to the public interest. It is the Corps determination that issuance of a Department of the Army permit for this project would not be contrary to the public interest (see section 10 above and paragraph 14.e below). The following are specific public interest review factors, for which Ms. Blackner provided comments. The Corps acknowledges Mr. Blackner’s opinions regarding these specific

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factors, and provides as responses the evaluations provided in this document and in the FEIS, as noted and referenced below:

- (a) Conservation will not be served.

Corps response: See paragraphs 9.b(4)(b), 10.a(1), 10.b, and 10.f above, regarding regional conservation efforts tied to this proposed project, and the compensatory mitigation specifically required for this project, which constitutes a component of a regional conservation plan, the West Bay Sector Plan's WBCA.

(b) Economics: Owners of land surrounding airport will make money, construction industry will make money providing low wage jobs, airport authority can make money in present location. Economic benefits to a select few, not larger public, drive further and waste gas.

Corps response: See paragraphs 10.a(2) and 10.a(14) above regarding the detailed economic analysis for this project, and the various benefits and detriments noted.

(c) Aesthetics: Leaving the proposed project site as is, would be more aesthetically pleasing, than as an airport and surrounding attendant development with associated noise and pollution.

Corps response: See paragraph 10.a(3) above regarding Corps analysis of aesthetics.

(d) General environmental concerns: Destruction of 1500 acres of wetlands, harmful impacts to receiving waters, impacts to wildlife habitat and Gulf Sturgeon – many direct, secondary and cumulative impacts. Precedent setting to allow more projects in area that would cumulatively harm West Bay and its watershed. Wetlands: 1,500 acres of wetlands and their various ecological and hydrological functions would be lost and significant secondary impacts on surrounding wetlands. Drains to St. Andrew Bay and Gulf, which is designated critical habitat. Any mitigation would be insufficient to offset project impacts. Practicable alternatives exist.

Corps response: The proposed Phase 1 project, which is the project under review in this RODSOF for authorization by DA permit, would directly impact all of the approximately 595.2 acres of wetlands, located within the Phase1 project boundary within the conceptual, multiphase project boundary. See paragraphs 10.a (1), (4), and (6); and 10.e above; and responses to comments 13.e(11) and 13.e(12) above. St.

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Andrew Bay is not designated critical habitat for the Gulf Sturgeon or any other listed species. The proposed project would have no effect on the Gulf Sturgeon and its designated critical habitat (See paragraph 10.e above and FWS's Biological Opinion, FAA's ROD, Appendix E). See responses to comments 13.e(1) and 13.e(10) above regarding alternatives.

(e) Fish & Wildlife Values: Loss of 1500 acres of wetlands would eliminate wildlife habitat and negatively impact fishery resources through diminished water and sediment quality. Direct, secondary and cumulative impacts on receiving waters' food chains; decrease wetland habitat for aquatic, wetland, avian, and upland fauna for feeding, nesting, refuge and reproduction; loss of filtering capacity affecting water quality and thus recreational and commercial fisheries, and would affect Gulf Sturgeon critical habitat.

Corps response: The proposed Phase 1 project, which is the project under review in this RODSOF for authorization by DA permit, would directly impact all of the approximately 595.2 acres of wetlands, located within the Phase1 project boundary within the conceptual, multiphase project boundary. See paragraphs 9.a(5), 9.a(7/8), 10.a(6) above and response to comment 13.e(13)(d) above.

(f) Flood Hazards: Onsite wetlands provide storage for storm and floodwaters, elimination of which decrease flood storage and increase potential for flooding. Floodplain Value: Much of the site is in the 100-year floodplain. Floodplains important to public interest for moderation of floods, water quality maintenance, groundwater recharge, living resources values, open space, natural beauty, scientific study, and outdoor recreation and education, and would be lost if project permitted. Pursuant to Executive Order 11988, should avoid floodplain impacts when practicable alternatives exist outside the floodplain. Commenter claims that practicable alternatives exist to building project in floodplain.

Corps response: The proposed project has been reviewed and would be in compliance with Executive Order 11988, as implemented by the Corps, pursuant to 33 CFR Part 320.4(l). See paragraph 10.a(7) above regarding evaluation of the proposed project's impacts to floodplains and flood hazards, including mitigation in regards to floodplains. See paragraph 8.d above regarding the conclusion of the Corps' alternatives analysis, that the proposed project is the least damaging practicable alternative.

(14) The proposal given its size and extent of impacts to waters of the U.S. would cause or contribute to significant degradation of waters of the U.S. (40 CFR

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230.10(c), and does not meet objectives of the CWA.

Corps response: The proposed project would not cause nor contribute to significant degradation of waters of the U.S., as evaluated and determined in Section 9 above.

(15) Commenter disputes the Corps' initial determination that the wetlands on the project site are not EFH.

Corps response: As stated in the public notice, the Corps' initial determination was that the proposed action would have a minor adverse impact on EFH or Federally managed fisheries in West Bay. The NMFS did not provide any response in disagreement with the Corps' initial determination. In a letter to the FAA, dated July 13, 2005, the NMFS stated that the FAA had provided an EFH assessment for the proposed project, and that the NMFS had no EFH conservation recommendations to provide. See paragraphs 7.d(3) and 11 above. No wetlands or other waters designated as EFH are located on the proposed airport relocation site, and thus no EFH would be directly impacted on the proposed project site (see FEIS, Section 5.10.4.3).

(16) Project would alter flow of water from the two creeks into West Bay; and the elimination of wetlands would allow contamination of the aquatic environment from runoff of impervious surfaces.

Corps response: See paragraphs 9.a and 10.a(13) above and response to comment 13.e(6) above.

(17) Why was mitigation discussed in the public notice when there was no information regarding practicable alternatives, avoidance and minimization. Why is mitigation in public notice when sequential review has not occurred per the MOA between the Corps and EPA dated November 15, 1989. Mitigation should only be considered after alternatives analysis and minimization.

Corps response: The purpose of the public notice is to advise interested parties of a proposed project and to solicit comments and information for the evaluation of the application. Information that must be provided in a public notice is defined in 33 CFR 325.3(a). A public notice should contain a concise description of the project, the overall project purpose, and anticipated impacts on the aquatic environment. Mitigation is often a component of an applicant's proposal, and is therefore, included in the public notice. Applicants are not required to provide an alternatives analysis for public notice purposes. According to 33 CFR Part 325.1(d)(9), issuance of a public notice will not be

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delayed to obtain information necessary to evaluate an application. Subsequent to the issuance of the public notice, according to 33 CFR Part 325.1(e), such information will be required only for the Corps to make a public interest determination; a determination of compliance with the section 404(b)(1) guidelines, if appropriate; and environmental data and information on alternate methods and sites as may be necessary for the preparation of required environmental documentation. See comment 13.e(17) below for response to comment regarding sequential review. As has been demonstrated in Sections 8 and 9 above, the proposed project is considered the least environmentally damaging practicable alternative, since it is the only reasonable, feasible and practicable alternative, which would meet the project's overall purpose; and the project has been minimized to that required to develop a fully functional and operational international airport for commercial and civilian use. In addition, the project would include mitigation to compensate for the minimized impacts to waters of the United States, including wetlands. The Corps participated in the ETP process, which reviewed and commented on the proposed mitigation plan, prior to completing evaluation of alternatives and minimization (see Section 7.a regarding the Corps' participation in the ETP process). However, the Corps' final evaluation and determinations for this proposed project, that the project was the least damaging practicable alternative, that this alternative had minimized impacts on the aquatic environment, and that this minimized project would be appropriately mitigated, adhered to the sequence of review pursuant to the MOA.

(18) Preservation of wetlands is not a form of wetland mitigation. Wetlands are already protected under the CWA.

Corps response: According to RGL 02-02 preservation of wetlands is the removal of a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. Compensatory mitigation credit can be given when existing wetlands, or other aquatic resources, are preserved in conjunction with establishment, restoration, and enhancement activities. Wetlands are not protected under the CWA from all potentially detrimental activities. For both the proposed project site and the proposed mitigation site, detrimental timbering and pine silvicultural activities are currently allowed in onsite wetlands (specifically, wetlands which are subject to Section 404 CWA jurisdiction only) pursuant to the exemptions found at 33 CFR Part 323.4. If the proposed project is permitted, the entire 9609-acre mitigation project site would be subject to a mitigation plan that would convert, via restoration and enhancement activities, pine plantation areas back to wet pine flatwoods, wet pine savanna, mesic flatwoods, sandhill, and other habitat types, which historically occurred in the area. All mitigation areas would be placed under conservation easements to ensure their perpetual protection. See Section 9a.(4)(b) for specifics regarding the proposed

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mitigation plan.

(19) Commenter takes issue with reference to wetlands on the site, which are not proposed to be directly impacted, as “preserved”, since these wetlands would be adversely altered by the proposed work. With respect to mitigation how can preserved wetlands on site be enhanced? Diversion of stormwater into wetlands does not constitute enhancement of wetlands, but rather degradation. Given that there is no discussion of the functions provided by the wetlands on the site, it is not possible to determine that the enhancement of existing wetlands would compensate for loss of other wetlands.

Corps response: The proposed mitigation plan does not include any activities for enhancement of wetlands that would be preserved on the proposed project site itself. The Corps agrees that wetlands adjacent to areas impacted on the proposed site would be adversely impacted, if the project is constructed. The potential loss of wetlands functions in these wetlands (adjacent wetlands both onsite and off of the project site) was quantified using WRAP and would be compensated by the proposed mitigation plan (see Section 9.a.(4)b). Stormwater discharge into wetlands or other waters were not regarded as an enhancement that would raise WRAP scores over natural wetland conditions. Descriptions, discussion and evaluation of the impact of the proposed project on wetlands, the aquatic environment, and their various functions and values; and the enhancement and restoration of wetlands and their functions on the mitigation sites, are provided throughout this RODSOF and by reference in the FEIS, including paragraphs 2.b, 2.d, 8.c, 9.a(5), 9.b(4)(b), 10.a(4), 10.a(6), 10.a(7), 10.a(11), and 10.e above.

(20) Prescribed burning on the mitigation parcels will be problematic, and unlikely to be allowed, due to potential interference of smoke on airport operations, on traffic on area highways, and on development that would occur in the area.

Corps response: The burn plan contained within the *Panama City – Bay County International Airport Relocation Mitigation Plan (October, 2006)*, Appendix E, addresses smoke management issues and concerns. Prescribed fire is often used as a management tool near smoke sensitive areas within the region, including within private preserves adjacent to Interstate 10 and within the Apalachicola National Forest in close proximity to the Tallahassee Regional Airport, major roads and highways, and portions of the Tallahassee/Leon County metropolitan area.

(21) How is the loss of 1500 acres of wetlands and the mitigation proposal to preserve and enhance onsite and offsite wetlands consistent with the Corps no net loss

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policy?

Corps response: The proposed Phase 1 project would eliminate 595.2 acres of wetlands, while the conceptual, multi-phase project could eliminate as many as 1513 acres of jurisdictional wetlands and 17 acres of non-jurisdictional wetlands. Both the Phase 1 and conceptual projects would indirectly impact remaining adjacent wetlands. According to RGL 02-02, the objective for compensatory mitigation, is to provide at a minimum, one-to-one functional replacement, i.e. no net loss of functions, with an adequate margin of safety to reflect anticipated success. An assessment of wetland functions using WRAP, determined that wetland functions gained through the enhancement and restoration of wetlands within the mitigation areas would be greater than the wetland functions lost due to impacts associated with the construction of the proposed airport, even with the inclusion of time lag and risk factors. See section 9.b.(4)(b) above for details.

(22) How does enhancing and preserving 951 acres in another watershed serve as mitigation for the destruction of over 265 acres of wetlands?

Corps response: These acreages were not referenced in the public notice. Both the proposed wetland impact areas and proposed wetland compensatory mitigation areas are located in the same watershed (West Bay portion of the St. Andrew Bay watershed).

(23) The public notice did not provide an analysis of how proposal would affect remaining wetlands. How will remaining wetlands be affected as far as habitat and other wetland functions, in that they would be surrounded by development and proposed ponds, and how will larger wetland system of which these wetlands are a component, be affected? No information provided regarding the hydroperiods of existing onsite wetlands, the natural hydroperiods of existing wetlands on the site, how existing hydroperiods were altered, or how the hydroperiods are proposed to be replicated. Project would alter hydroperiods of remaining wetlands. Conversion of existing wetlands into retention ponds for stormwater constitute an attractive nuisance for wildlife that used the wetlands prior to conversion. Wildlife that would utilize wetlands contaminated by stormwater would be exposed to toxic and hazardous compounds. Excavation of drainage pits will drain remaining wetlands. Effect of permanent lowering of surficial aquifer on remaining abutting and surrounding wetlands and surrounding unbuilt uplands should be analyzed and evaluated.

Corps response: Information required for the Corps' evaluation of a proposed project, such as hydroperiods of wetlands, habitat values, other wetland

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functions and values, and analyses of project impacts on the aquatic environment, are not required for the publication of a public notice, nor normally provided in a public notice (see response to comment 13.e(5) above). This RODSOF provides the disclosure of the analyses and the Corps' evaluation of the project's impacts on the aquatic environment. Although the proposed project does not propose to drain the project site area, there would be some reduction in groundwater infiltration and recharge from increased impervious cover on the project site (See FEIS, Vol. 1, Sections 5.8.2.1 and 5.8.2.2). The FEIS acknowledges that this could affect downstream wetlands and base and surface flow in the downstream areas. Since, the stormwater treatment system is designed to maintain existing drainage patterns and hydrologic basin outfalls in the post-development condition (see FAA ROD, Section 9.5, Mitigation); stormwater runoff that does not infiltrate into the groundwater within the project site, would be immediately discharged at the project boundary into downstream flowing wetland systems with small, shallow streams thus reducing the impacts on downstream waters. WRAP was used to assess current hydrology and habitat value of wetlands for both the proposed project and mitigation sites, the direct and indirect effects of the proposed project on the hydrology and habitat value of wetlands both on the project site and adjacent to the project site, and the effect on wetland hydrology and habitat values, that would occur with implementation of the compensatory mitigation plan. Impacts to the hydrology and habitat value of wetlands and other waters would be compensated by the proposed mitigation plan. Various wetland functions and values, including habitat values impacted on the project site, would be compensated by the restoration of the proposed mitigation sites from highly impacted wetland and upland planted pine areas back to wet pine flatwoods, wet pine savanna, mesic flatwoods, sandhill, and other habitat types which historically occurred in the area. Hydrological compensation would be achieved through hydrologic restoration of wetlands within the mitigation areas by thinning planted pine stands to reduce evapotranspiration to natural levels, elimination of clear-cutting practices, creation of low water crossings to re-establish and improve connectivity of flowing wetlands at road crossings, removal of timber roads not necessary for the management of the mitigation area, filling and blocking of artificial drainage ditches, and restoration of altered streams and flowing wetland drainages (see Section 9.b(4)(b) above). The stormwater treatment facilities are primarily dry retention ponds designed to meet 24-hour draw down criteria in accordance with FAA guidelines to reduce wildlife attraction.

(24) Has FEMA been consulted regarding this project? Potential for flooding of adjacent properties by construction of this project should be evaluated.

Corps response: No comments were received from FEMA in response to the public notice. See paragraph 10.a(7) above regarding project impacts on floodplain

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values and flood hazards.

(25) What are the impacts of the project on Pine Log State Forest and lands owned by the NFWFMD near the site.

Corps response: Public lands are expected to be very minimally affected, if at all, by the relocation of the Panama City – Bay County International Airport. The proposed location was chosen to be at least one-mile from Pine Log State Forest so that smoke management concerns within the state forest would not be an issue. The proposed location is over eight miles from NFWFMD lands. Additionally, conservation lands identified in the West Bay Sector Plan would connect these public lands with the proposed mitigation area, providing corridors for wildlife.

(26) Request for a public hearing.

Corps response: An acknowledgment of the public hearing request was sent to Ms. Blackner on July 26, 2005. See paragraph 12 above and 14.d below regarding public hearing requests.

f. The comment letter received on June 1, 2005 from Mr. Frank Gorham, President of Friends of PFN, Inc., was almost entirely composed of comments submitted by Mr. Gorham on behalf of Friends of PFN, Inc. in response to issuance of the DEIS. Responses to Mr. Gorham's DEIS comments are provided in the FEIS (Vol. V).

(1) Specific to the Section 404 permit application, Mr. Gorham stated that the Corps cannot legally approve the requested permit unless there is no other suitable alternative.

Corps response: See Corps response to comment 13.e(1) above.

(2) Public hearing request by Mr. Gorham.

Corps response: An acknowledgment of the public hearing request was sent to Mr. Gorham on June 7, 2005. See paragraph 12 above and paragraph 14.d below regarding public hearing requests.

g. Comments received on June 2, 2005 from Ms. Melanie Shepherdson on behalf of the Natural Resources Defense Council regarding the Section 404 permit application, which are relevant to this evaluation, have been edited and condensed to reduce redundancy, and are addressed below. Comments in response to the DEIS are

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addressed in the FEIS (Vol. V).

(1) Corps should deny permit because project would have irreversible adverse impacts on the environment and wildlife.

Corps response: The Corps concurs that the proposed project would have irreversible adverse impacts on the environment. However, these impacts would be minimized and mitigated. See Corps response to comment 13.e(1) for additional information.

(2) The public notice was deficient in that it did not describe or analyze project alternatives, nor did it provide adequate descriptions of waters/wetlands and other environmental resources proposed for impact. It was premature to issue public notice prior to issuance of the FEIS, and thus premature to propose issuance of CWA permit. Proposed permit is unlawful and should be denied by the Corps.

Corps response: See Corps responses to comments 13.e(5) and 13.e(23) above regarding the adequacy of the public notice. Issuance of a FEIS is not required prior to issuance of a public notice for a Corps permit application. The Corps stated in the public notice that an EIS would be required. The public notice did not propose issuance of a permit for the proposed project. Rather, it informed the public of, and allowed the public to review and provide comments regarding, the proposed project, that would be evaluated by the Corps to determine whether a permit should be issued. The public notice was published after issuance of the DEIS. See Corps response to comment 13.e(1) above and determinations in Section 14 below regarding the outcome of the evaluation of this project under the Corps' various regulatory authorities.

(3) Permit should be denied since a practicable alternative exists to the applicant's proposed project, i.e. improvements at the existing site. The proposed airport and attendant facilities are not water dependent and do not require siting in a special aquatic site, such as wetlands, and thus the Corps must presume that practicable alternatives exist, unless clearly demonstrated otherwise. Corps has not analyzed any alternatives.

Corps response: See Corps responses to comments 13.e(1) and 13e(11) above.

(4) Section 404(b)(1) guidelines require appropriate and practicable steps be taken to minimize potential adverse impacts of a discharge on the aquatic environment. The permit should be denied due to various project effects on the eight factual

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determinations in the Section 404(b)(1) guidelines.

Corps response: See Section 9 regarding the Corps evaluation of, and conclusions regarding, the proposed project under the Section 404(b)(1) guidelines, including the eight factual determinations. The following are NRDC's specific comments regarding the individual factual determinations with Corps responses.

(a) Physical substrate – The proposed filling of over 1,500 acres of wetlands will have a substantial adverse effect on the substrate at the proposed disposal site. The substrate will be compacted, resulting in destruction of the wetlands' ecological values for filtration, biomass accumulation, carbon storage, wildlife habitat, and flood control. These effects will be substantial because the proposed fill is the most environmentally damaging option for increasing air traffic capabilities and it is permanent.

Corps response: The proposed Phase 1 project, which is the project under review in this RODSOF for authorization by DA permit, would directly impacts all of the approximately 596 acres of wetlands, located within the Phase 1 project boundary within the conceptual, multiphase project boundary. The Corps agrees that the filling of wetlands within the proposed relocation site would eliminate ecological function within those specific wetlands. However, the proposed stormwater design would minimize impacts to these functions in terms of hydrology and water quality, and the proposed compensatory mitigation plan would compensate for the various losses in wetland functions. Proposed restoration and enhancement of wetlands within the mitigation area would improve the ability of those wetlands to filtrate, cycle nutrients, serve as wildlife habitat, and serve as flood control in the same immediate watershed (West Bay), that the proposed impacted wetlands are located. Prescribed fire, planting of native vegetation, and hydrologic restoration would improve all of the previously mentioned functions within mitigation area wetlands (see paragraph 9.b(4)(b) for additional information regarding compensatory mitigation). Stormwater design to OFW standards and the matching of pre-and post-development discharge rates would also mitigate the functional values of flood control and filtration currently provided by the wetlands that are proposed to be impacted. See paragraph 9.a(1) above for additional information regarding physical substrate. See section 8 above regarding the alternatives analysis and the Corps determination of the least environmentally damaging practicable alternative.

(b) Water circulation, fluctuation, and salinity – As the potentially impacted wetlands stand today, they are filled by rainfall and groundwater discharge and ultimately flow into West Bay and St. Andrew Bay. Filling the wetlands and covering the

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fill with impervious surfaces such as roads, runways, and buildings will substantially alter the hydrological cycle in the area. Not only will this affect the quantity of water flowing into West and St. Andrews Bays, but it will also greatly affect the quality of that water.

Corps response: The stormwater design would closely match post-development discharge locations and rates to pre-development conditions within each sub-basin after leaving the airport site footprint, particularly at stream locations such as Kelly Branch and Bear Bay. This would help to maintain hydrologic integrity downstream. The rates and volume of freshwater entering West Bay and the St. Andrew Bay Estuary would not substantially change as a result of the project. As a permit condition, water quality parameters, including salinity, would be monitored at eighteen sites before and during Phase 1 construction, and for at least six years after operations begin. The monitoring reports will be provided to the FDEP, in its role as the water quality certifying agency in Florida, with copies provided to the Corps. This water quality monitoring plan is a requirement of FDEP's EMA for this project. See paragraph 9.a(2) above for additional information regarding water circulation, fluctuation and salinity.

(c) Suspended particulate/turbidity – The amount of fill material necessary to complete this proposed project creates the possibility for a significant release of suspended particulates and increase turbidity. Furthermore, by destroying the 1,500 acres of wetlands, this proposed project would decrease the particulate filtering capabilities of the West Bay and St. Andrews Bay watershed.

Corps response: The proposed Phase 1 project, which is the project under review in this RODSOF for authorization by DA permit, would directly impact all of the approximately 596 acres of wetlands, located within the Phase 1 project boundary within the conceptual, multiphase project boundary. During construction of the proposed airport, compliance with NPDES permits and implementation of current erosion and sedimentation control BMPs in accordance with FAA Advisory Circular 150/5370-10B would minimize the possibility of the entry of sediment into adjacent wetlands and waterbodies. Likewise, stormwater treatment to OFW standards would prevent sediment from entering adjacent waters once the airport is constructed. Finally, enhancement and restoration activities within the mitigation area would improve the filtering ability of wetlands and water courses draining to West Bay (see paragraph 9.a(3) above).

(d) Contaminants – Though it is unclear whether the fill material will itself introduce contaminants into the affected area, it is abundantly clear that the construction

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of an airport would greatly increase contaminant loading to the surrounding areas. Contaminants from construction itself, as well as those introduced afterwards from roadways, runways; fertilizers, and all other sources of pollution incidental to an airport, would greatly increase if this application is not denied.

Corps response: See paragraph 9.a(4) above.

(e) Aquatic ecosystem and organisms – The wetlands that could potentially be impacted here are vitally important for filtering contaminants out of the watershed, accumulating biomass, storing carbon, cycling nutrients, and providing habitat for a diverse spectrum of plants and animals. The wetlands also serve a fundamental role at the base of the food chain. Litter from the forested wetlands that might be impacted here decomposes to create the detritus that is food for zooplankton. Zooplankton is eaten by larger organisms that are, in turn, eaten by even larger organisms. Thus, the loss of these forested wetlands will ultimately lead to a decrease in food for the largest predators, including humans.

Corps response: See paragraph 9.a(5) above.

(f) Proposed disposal site – The proposed disposal site here is a vast swath of diverse wetland ecosystems. The DEIS for this project notes that proposed disposal site consists of hundreds of acres each of titi swamp and titi-bay-pine swamp. There are also ecologically important stretches of cypress swamp and hydric pine flatwoods. These areas are too important for the public and the broader environment to be destroyed.

Corps response: The Corps disagrees with the commenter's characterization of the proposed project site. The project site has been greatly impacted by decades of silvicultural operations on uplands and in wetlands. Nearly one-half of onsite wetlands are wet planted pine plantation. Another quarter of the onsite wetlands are fire suppressed titi wetlands, some of which were historically higher quality mixed forested wetlands before hardwoods and cypress were logged. Only about 50 acres of the 4,037 acre site is hydric pine flatwoods. All wetlands within the site, which could even marginally support the growth of pines, have been intensively planted in slash pine. Virtually all of the uplands have been planted in either slash pine or sand pine. As stated previously, the WRAP analysis showed that there would be a surplus in functional lift compared to functional loss for the restored mitigation areas over the eliminated wetland impact areas on the project site. See paragraph 9.a(6) above for additional information regarding the proposed disposal site.

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(g) Cumulative effects – Failure to deny this application would open the floodgates to permit applications for further development in surrounding wetlands. The 1,500 acres of wetlands that would be destroyed in order to relocate the airport would be just the beginning. Development surrounding the airport, from hotels and restaurants to car rental agencies, would follow, with developers seeking permission from the Corps to fill in the surrounding wetlands. It is not unreasonable to anticipate permit applications to fill thousands more acres of wetlands that would then be covered with impervious surfaces, increasing pollutant loading to the local watershed and decreasing the ability of the ecosystem to function properly. Destruction of 1,500 acres of wetlands on its own is too much. Setting a precedent that would allow further destruction of this ecologically important area in Florida is unconscionable.

Corps response: The proposed Phase 1 project, which is the project under review in this RODSOF for authorization by DA permit, would directly impact all of the approximately 596 acres of wetlands, located within the Phase 1 project boundary within the conceptual, multiphase project boundary. See paragraphs 9.a(7)/(8) and 10.g above and Corps response to comment 13.e(12) above.

(h) Secondary effects – In addition to the anticipated increase in permit applications to fill surrounding wetlands, there are numerous foreseeable secondary effects of this proposal on the environment. For instance, destroying these wetlands will result in permanent loss of habitat used by animals for hunting, breeding, and migrating. The proposed new airport would also bring with it runoff containing fertilizers, pesticides, and other chemical contaminants produced by air and automobile traffic. Additionally, replacement of sponge-like wetlands with impervious layers of asphalt, concrete, and other materials will greatly increase the flow of surface waters through the Burnt Mill and Crooked Creeks into West Bay and St. Andrews Bay.

Corps response: See paragraphs 9.a(7)/(8) and 10.g above regarding secondary and cumulative impacts. See paragraph 10.a(6) above regarding impacts to fish and wildlife, and their habitats. See Section 9.a above regarding impacts to the natural substrate and control of contaminants at the proposed project site.

(5) The proposed Wildlife Management Plan (WMP) could result in destruction of all 1,913 acres of wetlands on site, beyond the 1,513 acres of jurisdictional wetlands (plus an additional 17 acres of non-jurisdictional wetlands) requested for the proposed project.

Corps response: The Corps had concerns and requested clarifications regarding the WMP in its letter to the applicant, dated November 1, 2005 (see

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paragraph 7.g above). As described in the public notice, The Phase 1 project, which is the only portion of the conceptual, speculative, 50-year project, under consideration for authorization for actual construction, would impact approximately 595 of the approximately 1,915 acres of jurisdictional wetlands on the entire proposed airport relocation site (see paragraph 2.c above). All future phases, including any regulated activities related to wildlife hazard management outside the initial phase, would be subject to additional Corps review and approval. The WMP was specifically required by the FAA. The concept of retaining certain wetland areas without direct impacts and delaying impacts where possible was developed during the state's ETP process, with input from various regulatory and resource management agencies, including airport wildlife hazard management experts. The applicant at the Corps request, modified the WMD to explicitly state that authorization from the Corps would be required for any additional, regulated impacts to onsite wetlands, proposed by the applicant in order to minimize damaging bird and wildlife strikes to aircraft. In addition, wetlands, which are not authorized for direct impacts pursuant to a permit, if issued, would be preserved, but may continue to be managed through standard forest management operations and forestry BMPs, as has been practiced by St. Joe on the site, except that wetland hardwoods and cypress would not be harvested for timber or other solely commercial purposes (see paragraph 2.d(2)(b)). In addition, compensatory mitigation would be provided in advance for all future potential wetland impacts, as a conservative worst-case scenario under the 50-year permitting approach for potential, future airport development. This mitigation would be provided and remain in place regardless of whether or not future impacts occur.

(6) Rather than avoid and minimize wetland impacts by choosing an appropriate site, the applicant seeks to mitigate impacts through offsite mitigation. The mitigation sites are comprised of different ecosystems, which cannot provide equivalent functions and values as wetlands that would be impacted on the project site, and that the mitigation sites' wetlands are not as high quality or functional value as the wetlands and waters on the project site. To create or restore forested wetlands, such as those found on the subject sites, is more difficult than other types of wetlands, and that structural characteristics of the forest are quite different from natural wetlands. The mitigation area includes approximately 40 dump sites containing discarded items such as refrigerators, automobile scraps, and construction debris, and thus the mitigation area is nowhere near the high quality or functional value of the wetlands and waters that would be irreversibly destroyed in the event that the permit is granted.

Corps response: Wetland types within Phase 1 of the impact site include hydric pine plantation (Florida Land Use, Cover, and Forms Classification System (FLUCFCS) type 441/600), titi (614), cypress (621), mixed forested wetlands (630), and

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freshwater marsh/vegetated non-forested wetlands (641/640). These same types of wetland systems are found within the mitigation area. Additionally, several other wetland habitat types occur within the mitigation area adding to the diversity of the restored and preserved ecosystem and include: gum swamps (613), stream swamps (615), hydric pine flatwoods (625), and tidal marsh (642). Essentially, both the project and mitigation sites are predominantly planted pine plantation; however, under the mitigation plan, the pine plantation within the mitigation site will be restored to historical wet pine savanna (626), flatwoods (625 and 411), sandhills (412), and mixed forested wetlands (630). According to RGL 02-02 the Corps may require in-kind, out-of-kind, or a combination of in-kind and out-of-kind compensatory mitigation to achieve functional replacement within surrounding watersheds. In this case, the proportion of the various types of wetlands impacted versus the types of wetlands restored is not on a one-to-one acreage basis, and there are some categories of wetlands on the mitigation site, which are not found on the project site, the most noteworthy being salt marshes. Therefore, the proffered compensatory plan would be described as a combination of in-kind and out-of-kind compensatory mitigation. The WRAP assessments of proposed wetland impacts and mitigation demonstrated that the proposed compensatory mitigation would more than offset the sum of wetland functions that would be lost (see Section 9.b(4)(b)). RGL 02-02 states that out-of-kind mitigation is appropriate, when it is practicable and provides more environmental or watershed benefit than in-kind compensation. RGL 02-02 also supports the use of off-site mitigation when there is no practicable opportunity for on-site mitigation, or when off-site provides more watershed benefit than on-site mitigation. In this case the proposed off-site mitigation areas are very close to the impact site, varying in distance from approximately one-half mile to approximately three miles from the impact site. Overall, the environmental benefits of having compensatory mitigation on three very large, adjacent parcels, managed together under one plan, with a diverse mosaic of restored and enhanced habitats, which are appropriate for the geographic setting, which are relatively close to and in the same immediate watershed as the impact site, and which include a significant portion of West Bay shoreline and salt marshes, would be much more preferable than a mitigation plan that consisted of a mosaic of disconnected, strictly in-kind mitigation parcels scattered about the landscape. The approximately 40 small “dumpsites” located along forest roads within the mitigation area, are the result of illegal trespass on the property by private parties. The sites are typically very small in size. Any impact from the presence of these dumpsites is primarily restricted to the footprint of the debris, as fluid leakage, unusual odors, vegetation discoloration and mortality, or soil staining were not observed at the sites. Such dump sites are common throughout the region and occur within the proposed airport relocation site as well. The debris located at these sites on the mitigation site would be removed as part of the mitigation plan. Locked gates will be placed on the access roads to the mitigation areas, thereby reducing the potential for

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future illegal dumping. The Corps disagrees that the wetlands within the mitigation area are “nowhere near the high quality or functional value” as wetlands within the impact area. The WRAP was completed for habitat types within both the impact and mitigation sites, which showed that habitat types had the same existing functional value within both areas. Hydric planted pine (441/600) areas received a WRAP score of 0.66 compared to the score of 1.00 for a fully functional wetland, while titi swamps (614) scored 0.70. These two wetland types comprise approximately 60% of wetlands within the impact footprint of the initial project phase and are not high quality when compared to fully functioning wetland systems. Lastly, the comparison of existing quality of wetlands within impact sites and wetlands proposed for mitigation is irrelevant when using a functional assessment method to calculate mitigation, since functional lift value of the mitigation is calculated by subtracting the existing score from the proposed score once restoration or other mitigation activities have achieved their goals. Mitigation WRAP scoring took into account both the risk and particularly the time lags involved with enhancement and restoration of forested wetland systems.

(7) The Corps must receive state certification under section 401 CWA, and such certification from Florida has not been received. The applicant will not be able to secure NPDES permits for stormwater and wastewater treatment, because West Bay and St. Andrew Bay will soon be listed as impaired waters by the state of Florida under § 303(d), CWA, and that no Total Maximum Daily Loads (TMDLs) have been developed for West Bay and St. Andrew Bay. Therefore, the Corps would be precluded from permitting the proposed project. The project would cause “significant degradation of the waters of the United States”, because more than 1,500 acres of wetlands will be lost and unable to assimilate nutrients, purify water, or provide habitat for fish and wildlife, nor is considered the impact of increased impervious surfaces and resulting stormwater runoff on water quality. Project fails to include any measures to mitigate degradation of water quality caused by stormwater runoff and associated loading of nutrients, PAHs and toxic and non-toxic algal blooms.

Corps response: Burnt Mill Creek, Crooked Creek, and West Bay are not currently listed as impaired waters under § 303(d), so the referenced regulations do not apply to these water bodies at this time. The FDEP issued its EMA to the applicant on December 1, 2006. The EMA includes Section 401 water quality certification, and stormwater and wastewater permits for the entire airport facility, including the Phase 1 project, and thus certifies that the proposed project would not violate water quality standards. As a special condition for issuance of the Corps permit, additional pre-construction and post-construction water quality monitoring will be required (see Section 9, including special condition 11 at paragraph 9.c). The applicant has voluntarily agreed to meet OFW standards for stormwater treatment, which in turn, are required under the

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state's EMA. The wastewater treatment plant proposed for the airport site would not include discharge of treated wastewater to surface waters or wetlands within or outside the project site. The proposed Phase 1 project, which is under detailed review in this RODSOF for possible authorization, would eliminate 595.2 acres of wetlands; while the conceptual, multi-phase project, which has been disclosed and provides a framework for review of the Phase 1 project, could eliminate as many as 1513 acres of wetlands, but would come under additional, detailed review by Corps, at such time authorization for a particular future phase is sought. The proposed Phase 1 project would not cause nor contribute to significant degradation of waters of the U.S., as evaluated and determined in Section 9 above.

(8) Issuance of a permit for the proposed project would be contrary to the public interest, since a relocated airport would not serve the needs and welfare of the majority of residents in the area. A majority of voters in Panama City and Bay County voted by referendum in March 2004 to reject relocation, and current airport meets user needs.

Corps response: The Corps acknowledges that there was a non-binding referendum reflecting the differing opinions of members of the public, and that the majority of those who voted rejected the proposed PFN relocation project. Though the proposed PFN relocation project was rejected in a non-binding, local referendum; various public officials, elected by voters within the same electorate, have provided written statements to the Corps and the FAA in support of the proposed project. These officials include Senator Bill Nelson, Senator Mel Martinez, Congressman Allen Boyd, former Governor Jeb Bush, State Representative Allen Bense; and local elected public officials within Bay County, including elected officials of Bay County, City of Panama City, City of Panama City Beach, City of Lynn Haven, and City of Calloway. In addition, written statements in support of the project were received from elected, public officials representing electorates from surrounding counties in the affected region, including Congressman Jeff Miller, State Representative David Coley, and various local elected officials representing Walton County and Washington County (see FEIS, Vol. III and FAA-ROD, Appendix B). No letter was received in opposition to the project from any elected official. The Corps does not make its permitting determinations regarding specific projects based on the number of supporters versus the number of opponents to that specific project. The Corps makes its decision neither as an opponent nor as a proponent on any particular proposed project. Rather it is the Corps' charge to base its decision whether to issue a permit on an evaluation of the probable impacts, including cumulative impacts, of the proposed project and its intended use on the public interest. Overall, this decision reflects the national concern for both protection and utilization of important resources, in which the benefits, which may accrue from the proposed project, are balanced against reasonably foreseeable detriments. Paragraph 10.b above

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describes the public and private need for the proposed project. The Corps has evaluated the project in light of the public interest (see Section 10 above), and based on that evaluation, has determined in paragraph 14.e below, that authorization of the proposed project would not be contrary to the public interest.

(9) Specific public interest factors commented upon:

(a) Conservation: Destruction of 1500 acres of wetlands is contrary to conservation and mitigation should not be considered until least damaging alternative is determined. Also project is not consistent with Bay County's "Wide Open Spaces Strategy," and will induce urban sprawl.

Corps response: The proposed Phase 1 project, which is the project under review in this RODSOF for authorization by DA permit, would directly impacts all of the approximately 596 acres of wetlands, located within the Phase 1 project boundary within the conceptual, multiphase project boundary. See paragraph 8.d above, in which the Corps concludes the proposed Phase 1 project is the least damaging practicable alternative. The project is consistent with Bay County's West Bay Sector Plan, which guides land use in the project area (see paragraph 10.a(8) above). See paragraph 10.a(1) above regarding conservation and paragraph 9.b(4)(b) regarding mitigation.

(b) Economics: Businesses catering to current airport will suffer significant decline in business if airport relocates.

Corps response: See paragraph 10.a(2) above regarding economics and the proposed project. The Corps acknowledges that businesses, which serve the current airport, would be impacted by relocation of the airport. Whether this would be a detriment or an opportunity for these businesses would be determined by market forces, and individual business owner initiative, among other factors. Overall, it is anticipated that the relocated airport project would be a catalyst for economic growth in the West Bay area and Bay County.

(c) Aesthetics: A currently undeveloped area and its plants and animals will be replaced by unsightly expanse of flat land covered in concrete and asphalt with accompanying noise and light pollution.

Corps response: See paragraph 10.a(3) above.

(d) Wetlands: Loss of 1500 acres of wetlands would result in a significant decline in habitat for numerous species, and would minimize watershed's ability to filter

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pollutants, provide flood protection, sequester carbon, and form base of food chain.

Corps response: The proposed Phase 1 project, which is the project under review in this RODSOF for authorization by DA permit, would directly impacts all of the approximately 596 acres of wetlands, located within the Phase1 project boundary within the conceptual, multiphase project boundary. See paragraphs 9.a(1) through 9.a(7/8), 10.a(4), 10.a(6) and 10.a(7) above.

(e) Flood Control: EO 11988 instructs agencies to protect floodplains for the functions they have. Much of the 1500 acres of wetlands is within the 100-year floodplain.

Corps response: The proposed Phase 1 project, which is the project under review in this RODSOF for authorization by DA permit, would directly impacts all of the approximately 596 acres of wetlands, located within the Phase1 project boundary within the conceptual, multiphase project boundary. See Corps response to comment 13.e(13)(f) above.

(g) Water Quality: Stormwater runoff from the proposed project and loss of filtering capacity of impacted wetlands would decrease water quality in receiving streams and bays.

Corps response: See paragraph 10.a(13) above.

(h) Air quality: Project will remove plants which remove carbon dioxide and equipment associated with construction and use of project would increase air pollution.

Corps response: An evaluation of impacts on air quality that would result from the proposed relocation of PFN to the West Bay site is found in the FEIS, Vol. I, Section 5.7. The evaluation concluded that although the proposed relocation of PFN to the West Bay site would lead to increases in criteria pollutant emissions, these increases would not be significant. Converting the proposed relocation site from ongoing pine tree production to an airport facility, would eliminate from the developed portions of the site the periodic removal of carbon dioxide by pine trees and other vegetation during the cycle of pine tree growing. However, as part of the ongoing silvicultural cycle, pine trees are harvested and much vegetative material is burned or otherwise disposed, and thus some portion of carbon dioxide is periodically returned to the atmosphere. Although the overall loss of carbon sequestering, which periodically takes place on the project site, would not be significant, cessation of silvicultural

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activities and restoration to more ecologically natural conditions within the proposed mitigation areas, would likely replace some portion of that function, especially since pine tree production would be phased out within the mitigation areas.

(10) Threatened and endangered species: Proposed project will have a significant impact on threatened and endangered species, which has not been carefully considered by the Corps, FWS and NMFS, and thus permit should be denied. Federally listed species inhabit the area, including American alligator, gulf sturgeon, gopher tortoise, flatwoods salamander, Florida pine snake, eastern indigo snake, little blue heron, snowy egret, and great blue heron. The project would adversely impact these species and their habitats onsite and surrounding area. Proposed WMP would allow applicant to unilaterally impact wetlands and species, including threatened and endangered species, which the applicant determines are hazards. Pollution from project will adversely affect the critical habitat for Gulf sturgeon. During consultation between the Corps and NMFS, agencies should consider degradation to EFH resulting increased impervious surface and resulting stormwater pollution.

Corps response: See paragraph 10.e above regarding evaluation of the proposed project in regard to threatened and endangered species. See response to comment 13.g(5) above regarding the WMP. The proposed project would have no effect on the Gulf Sturgeon and its designated critical habitat (See FWS's Biological Opinion, FAA's ROD, Appendix E).

(11) The commenter compares this project with four other projects in Florida, for which the Corps denied permits. Reasoning applies to this project as for recent permit denials by the Corps for projects, which would have impacted high quality wetlands in significant headwaters of streams, and which would have been precedent setting if permitted.

Corps response: The commenter provided examples of four projects, for which the Corps denied permits in Florida in 2005. The Corps reviews projects based on the individual merits of each project within the context of applicable regulations, the onsite environment, and the surrounding environment; especially the effects of the project on the aquatic environment and the watershed it would be located, if permitted. Each project, when evaluated as an individual permit application under Section 404 of the CWA, must undergo an individual review of purpose and need, alternatives, compliance with the section 404(b)(1) guidelines, and the public interest review. Thus individual projects are individually determined to be permissible or not. In the case of this project, significant resources of the federal government have been expended, as evidenced by the FEIS, the FAA's ROD and this RODSOF, to review and evaluate the

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proposed project on its own merits in the context of the surrounding human and natural environment, and especially the aquatic environment. See response to comment 13.e(12) regarding precedent setting.

h. Comments received on May 30, 2005 from Mr. Donald R. Hodges included responses to both the DEIS and the Section 404 permit application. Comments regarding the Section 404 permit application are condensed and addressed below. Mr. Hodges' comments in response to the DEIS are addressed in the FEIS, Vol. IV. Mr. Hodges requested that a public hearing be held.

(1) Corps has obligation to prepare a programmatic EIS disclosing all cumulative impacts of not only airport project and Airport DSAP, but also in the Optional Sector Plan Overlay, West Bay DSAP and any other reasonably predictable land-use changes from these approved comprehensive plans.

Corps response: The Corps concurs with the response to this same comment by this commenter sent to the FAA in response to issuance of the FEIS. See FAA's ROD, Appendix B, Letter I004.

(2) Corps has obligations not only under NEPA, but also under 404(b)(1) guidelines. The public notice did not indicate that the Corps complied with requirements to analyze alternatives, avoid unnecessary wetland and water quality impacts, and develop adequate mitigation plans for unavoidable impacts.

Corps response: 33 CFR Part 325.1(d)(9) states that: "An application will be determined to be complete when sufficient information is received to issue a public notice.....The issuance of a public notice will not be delayed to obtain information necessary to evaluate an application." The public notice for this project provided the level of information as appropriate pursuant to 33 CFR Part 325.3(a). This RODSOF, the administrative record supporting this RODSOF, and the FEIS and the FAA's ROD, which the Corps adopts as supporting documentation for this RODSOF, as described in paragraph 7.b above; all constitute the Corps evaluation of this project under NEPA, the Section 404(b)(1) guidelines, and the public interest review.

(3) Is a "conceptual permit" a class or type of permit allowed by law or regulation? Does a "conceptual permit" differ in enforceability, term, or other substantial provisions from an ordinary permit?

Corps response: See paragraph 13.e(3) above.

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(4) The applicant is pursuing this permit before the FAA completes its EIS and renders a ROD on whether the project is the preferred alternative under FAA's responsibilities under NEPA.

Corps response: Issuance of a FEIS is not required prior to issuance of a public notice for a Corps permit application. The Corps stated in the public notice that an EIS would be required. The Corps conducted a separate alternatives analysis from that of the FAA (see Section 8 above).

(5) The applicant has no fee simple title, lease, or even option to purchase or obtain the property for the project, and no legal interest whatsoever in the property offered as mitigation should the project proceed. The owner of these properties should either be a principal in this application or convey legal interest in the property to the applicant.

Corps response: A land donation agreement between the current landowner of the proposed airport site and the applicant was finalized on August 22, 2006 (see FAA ROD, Appendix J for copy of Land Donation Agreement). The agreement includes provisions for the airport site to be transferred to the applicant by Special Warranty Deed. The mitigation areas would remain in the ownership of the current landowner, but would be placed under a conservation easement to the State of Florida, with certain rights provided to the Corps under the easement. The mitigation activities on the mitigation lands would be the responsibility of the permittee. The agreement encumbers the mitigation land to be used only as consistent with the conservation easements, which would be placed over the land, and with the conditions of both the FDEP's EMA and the Corps Section 404 permit, if issued. There is no requirement by the Corps for the current landowner to have been a principal in the application for this project.

(6) If the applicant receives a Section 404 permit, such permit should be conditioned on fee simple conveyance of all affected property to the applicant, and subsequent conveyance of either fee simple title or permanent conservation easement(s) by the applicant to an independent recognized private conservation entity for the mitigation property. The mitigation property should not be conveyed to the State of Florida or any political subdivision of the State of Florida, because every such entity has shown no commitment to permanent preservation in Bay County on the lands of this property owner. The mitigation property should be preserved, undeveloped, and managed in perpetuity completely outside the ownership and control of the present owner or any political subdivision. The permit should be conditioned on the applicant furnishing financial guarantees that the mitigation plan will be funded in perpetuity.

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Corps response: The airport site would be conveyed to the applicant per the Land Donation Agreement (see Corps response to comment 13.h(5) above). The commenter's opinion that the mitigation lands should not be turned over to any political subdivision nor ownership retained by the current owner is noted. However, the Corps is satisfied that the terms of the Land Donation Agreement and the conservation easement, which would be placed over the mitigation areas, would sufficiently protect the integrity of the mitigation areas. The applicant has provided financial assurance for the implementation and perpetual management of the mitigation areas (see last three paragraphs of 9.b(4)(b) and 9.c. Special Condition 8).

(7) Should a permit be issued, it should be conditioned on reducing the geographical scope of the applicant's project to the airport facilities reasonably expected to be needed within 50 years. This reduction in scope is necessary to comply with EPA's Section 404 guidelines that require avoidance of wetland impacts before resorting to mitigation.

Corps response: The only portion of the conceptual, multi-phase, 50-year, airport relocation project, which is under evaluation in this RODSOF for authorization for construction under a DA Section 404 permit, is the Phase 1 project, as described in paragraph 2.c above. The proposed project complies with the Section 404(b)(1) guidelines, as detailed in Section 9 above.

(8) The applicant has not justified the first phase of construction proposed, the 8,400 foot main runway. In spite of overwhelming evidence that the present airport, perhaps with modest improvements, is sufficient for the FAA planning period of 20 years, the applicant has persisted in developing plans and permit applications for the 8,400 foot runway. A compromise would be to allow the construction of only the 8,400-foot x 150-foot runway and associated facilities with no crosswind runway and no anticipation of a second parallel main runway; but if sufficient aviation demand required it, then allow expansion of main runway to 12,000 x 200 feet over the 50 year interval. A single-long-runway commercial service airport would support any conceivable aircraft type that could serve this region. General aviation users would be fully served by retaining the present PFN airport, suitably modified to comply with all FAA standards including compatibility with the airspace required for the new commercial service airport.

Corps response: See Section 8 above regarding the alternatives analysis, and the Corps determination that the proposed Phase 1 project is the least environmentally damaging practicable alternative.

(9) Public hearing request by Mr. Hodges.

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Corps response: An acknowledgment of the public hearing request was sent to Mr. Hodges on June 7, 2005. See paragraph 12 above and paragraph 14.d below regarding public hearing requests.

i. By letter dated July 3, 2006 and sent to the FAA in response to release of the FEIS, the NRDC, among comments regarding the FEIS, had several comments regarding the Corps' CWA responsibilities, particularly in terms of project purpose and need, and the analysis of alternatives in light of the 404(b)(1) guidelines, which are addressed below. Comments regarding the FEIS and the Corps' NEPA responsibilities are addressed in the FAA's ROD.

(1) The Corps' statement of project purpose and need and its application of the analysis of alternatives is so narrow as to rule out any alternatives to the sponsor's proposed project, thus the Corps evaluation of alternatives fails to meet the requirements of the CWA.

Corps response: The Corps disagrees with this characterization of its determination of project purpose and need, and the alternatives analysis, which was conducted for this project. See Section 8 regarding the Corps determination of project purpose and need, and the Corps alternatives analysis.

(2) The 404(b)(1) guidelines, which establish criteria that the Corps must follow to evaluate proposals to discharge dredged or fill material into waters of the United States, clearly mandate avoidance of impacts to wetlands and other aquatic sites, and where avoidance is not required minimization of impacts to these waters.

Corps response: The Corps has determined that the proposed project would comply with the Section 404(b)(1) guidelines. See Section 9 above.

(3) The mandate to avoid impacts is so strong, that it defines practicable alternatives to include locating a project in an area not currently owned by the applicant if that area "could be reasonably obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity." 40 C.F.R. § 230.10(a)(2). Here, the applicant does not even own the land at the proposed West Bay site (the St. Joe Company owns the land), so there is even less reason to prefer the West Bay site.

Corps response: See paragraph 13.i(1) above regarding the Corps' alternative analysis. Pursuant to 33 Part 321.1(d)((7) by the signature of the applicant or agent on a Corps permit application will be an affirmation that the applicant

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possesses or will possess the requisite property interest to undertake the activity proposed in the application. In this case the potential for lands being donated to the applicant by St. Joe for the proposed relocated airport and the proposed mitigation lands was identified. See Corps responses to comments 13.h(5) and 13.h(6) above regarding the donation of lands for this project.

(4) The mandate to avoid impacts is even stronger when an activity does not require access or proximity to a special aquatic site to fulfill the activity's basic purpose (i.e., when the activity is non-water dependent)." 40 C.F.R. § 230.10 (a)(3). Here, there is no question that building an airport is a non-water dependent activity, the 404(b)(1) guidelines create a legal presumption that practicable alternatives to the proposed activity are available that do not involve a special aquatic site. Special aquatic sites include wetlands, mud flats, and riffle and pool complexes that are deemed to be so ecologically valuable that their degradation or destruction may represent an irreversible loss of valuable aquatic resources. 40 C.F.R. § 230.1(d). The wetlands and streams at the West Bay site qualify as special aquatic sites. The Corps must deny a permit for a non-water dependent activity that impacts a special aquatic site unless the applicant clearly demonstrates that a practicable alternative does not exist. This places an extremely high burden on the applicant to show that there are not practicable alternatives to the proposal to build a new airport at the West Bay site.

Corps response: The Corps agrees that the project is not water dependent (see paragraph 9.b(1)); however, it has been demonstrated in Section 9 above, that the proposed project complies with the Section 404(b)(1) Guidelines. See Section 8 above regarding the Corps determination that the proposed project is considered the least environmentally damaging practicable alternative, because it is the only reasonable, feasible and practicable alternative, which would meet the project's overall purpose; the project has been minimized to that required to develop a fully functional and operational international airport for commercial and civilian use; and the project would include mitigation to compensate for environmental impacts to waters of the United States, including wetlands. Wetlands are the only special aquatic sites located on the proposed project site. There are no mud flats or riffle and pool complexes located within the project site. Riffle and pool complexes are associated with steep gradient streams, and coarse bottom substrates, which are not found on the project site (40 CFR Part 230.45(a)).

(5) The Corps alternatives analysis fails to fulfill the Corps' obligations under NEPA and the CWA and is otherwise arbitrary, capricious and contrary to law. The Corps' alternatives analysis is plagued by an improperly narrow definition of purpose and need, which resulted in rejecting reasonable and feasible existing site alternatives. The Corps

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rejected all other alternatives outright without doing any actual evaluation of the environmental impacts of the alternatives. This is particularly troubling considering the fact that the Corps' chief responsibility in this process is to evaluate the impacts of the proposed project and alternatives on waters of the United States, including wetlands and streams. Clearly, building a new airport with a 8,400 foot runway at the West Bay site would have significant and irreversible impacts on wetlands and streams, and inextricably connected action of redevelopment of the existing airport could have additional devastating impacts on seagrasses, oyster beds, and other aquatic resources. The Corps failed to carry out its obligations under NEPA and the CWA to evaluate alternatives that would avoid and minimize these impacts to the aquatic environment. Improperly narrowing the purpose and need to specifically require an 8,400 foot runway with a 5,000 foot primary crosswind does not absolve the Corps of its legal obligations.

Corps response: The Corps exercised independent judgment in defining the purpose and need for the project from both the applicant's and the public's perspective. The applicant is the Panama City – Bay County International Airport and Industrial District, a public, governmental entity, created by the Florida legislature in 1967, as an independent special district to create and maintain airport projects that promote the industrial, economic and commercial development within the District, which includes all of Bay County. In defining the purpose and need the Corps took into consideration the needs of the applicant and the general public in terms of economic considerations and benefits to the local community. The Corps considered the public's need for safe and efficient air transportation and relied on the FAA's expertise with regards to development of aviation facilities, particularly in terms of safety and design. The Corps also considered the purpose and need for the project in light of local and regional land use planning efforts that included public involvement in the development and adoption of the West Bay Sector Plan and the Airport and West Bay DSAPs (FEIS, Section 2.4.4 and paragraph 10.a(8) above). Therefore, the Corps did take into consideration the public's perspective in defining the purpose and need. The Corps determination of the overall project purpose considered allowances for expansion of air transportation services including international charter operations. The proposed 8,400 foot runway would accommodate international charter operations. See Sections 8, 9 and 10 above and paragraphs 14.a, 14.b and 14.e below, for details regarding the Corps evaluations and determinations, including evaluation of cumulative impacts that the project, as proposed, complies with NEPA, CWA and would not be contrary to the public interest. The potential for redevelopment of the existing airport site, should PFN be relocated to the West Bay site, is acknowledged and disclosed in the FEIS, the FAA's ROD and this RODSOF. At this time various redevelopment scenarios of the existing site are speculative, and no application has been received by the Corps for any specific, regulated work on the existing site. If in the future any redevelopment of the existing

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PFN site should require authorization from the Corps under the CWA or Section 10 of the Rivers and Harbors Act of 1899, that proposal would be fully evaluated by the Corps in light of its various regulatory responsibilities.

j. NRDC Mass Letter Campaign – February 2006: In February 2006 the NRDC posted on its “savebiogems.org” web site, an automated service to send letters to the Corps and FAA requesting that the proposed project not be approved. The form letters were received by the Corps by email, facsimile and postal mail. Between February 27, 2006 and July 3, 2006 the Corps received approximately 850 copies of the letter (including letters which had been slightly modified by individual senders). Specifically, the form letter requested that a Clean Water Act permit be denied; and commented that the existing airport is adequate to meet projected air travel demand; that the destruction of 2,000 acres of wetlands would have a substantial and irreversible adverse impact on ecosystems, habitat and wildlife in the West Bay and St. Andrew Bay watersheds; that due to the project’s proximity to the headwaters of Crooked Creek and Burnt Mill Creek the natural flow of water into West Bay would be disrupted and would lead to degraded water quality and habitat lost for sea turtles and Gulf sturgeon; and that the project would lead to greater cumulative impacts from project induced industrial and commercial projects.

Corps response: The various concerns listed in the above letter are restatements of many of the concerns in the preceding comments and have been addressed by the Corps. Overall, the Corps has conducted a complete environmental review of the proposed project in light of its responsibilities under NEPA, the CWA and other regulatory requirements, and has determined that the proposed project: 1) to be the least environmentally damaging practicable alternative (see Section 8 above); 2) complies with the section 404(b)(1) guidelines (see Section 9 above); 3) is in accordance with the Corps’ wetland policy (see paragraph 10.f above); 4) is not contrary to the public interest (see analysis in Section 10 above and conclusion in paragraph 14.e below); and 5) would not jeopardize the continued existence or critical habitat of any threatened or endangered species with the inclusion of a special condition, which makes the authorization under the Corps permit conditional upon the applicant’s compliance with the FWS’s BO’s mandatory terms and conditions (see paragraph 10.e above). Cumulative and secondary impacts are specifically addressed in paragraphs 9.b(7)/(8) and 10.g above.

k. NRDC Mass Letter Campaign – July 2006: In July 2006 the NRDC posted on its “savebiogems.org” web site, an automated email service to send a form letter by facsimile to the Corps. Between July 26, 2006 and August 11, 2006 the Corps received approximately 596 copies of the letter (including letters which had been slightly modified

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by individual senders). The form letter requested that the Corps perform a complete environmental review of the proposed project. The form letter also requested that a public hearing be held; and commented that there are less damaging alternatives; that the Corps has not met its obligation to analyze the full range of options; that the Corps narrowly defined the project purpose to eliminate all alternatives; that the Corps examined only a fraction of harmful environmental impacts of the first phase of the project, but considered a 50-year mitigation plan intended to compensate for project build-out; that the Corps must evaluate the impacts of losing 2,000 acres of wetlands directly and 7,000 acres of wetlands surrounding the airport from secondary development; and that the proposed project would eliminate 300 acres of flood surge protection and bury more than four miles of streams.

Corps response: See Corps response in paragraph 13.j above. An acknowledgment of the public hearing request was sent to the NRDC on November 6, 2006, since it was the originator and sender of the form letters. See paragraph 12 above and paragraph 14.d below regarding public hearing requests.

l. Comments received from Mr. Linwood W. Nichols on December 4, 2006; December 20, 2006; February 13, 2007; May 29, 2007; and July 9, 2007, stated that the Corps is supporting the relocation of PFN and requested that the Corps stop any finances or approvals relating to relocation of PFN. He stated that the citizens of Bay County had voted to stop the relocation, that there have been many newspaper articles in opposition to the relocation, and the current airport is sufficient.

Corps response: The Corps is not “supporting” the proposed relocation of PFN. Pursuant to 33 CFR Part 320.1a(4), the Corps is neither a proponent nor opponent of any permit proposal. See Corps response in paragraph 13.g(8) above regarding the non-binding referendum and that the basis of a Corps permitting decision is not based on the relative popularity of a proposed project. See Section 3 above regarding purpose and need for the project and Section 8 above regarding the Corps alternatives analysis. See Section 14 below regarding the Corps determinations regarding approval of the proposed project.

m. Comments received by letters dated October 19, 2006 and January 30, 2007 from Mr. Rylander of Defenders of Wildlife and Ms. Shepherdson of the NRDC, requested that the Corps and the FAA reinitiate formal consultation under the ESA with the FWS, and prepare a supplemental EIS under NEPA in response to additional reports, that Ivory-Billed Woodpeckers (IBW), had been detected in the bottomland forests of the Choctawhatchee River, approximately 20 miles from the proposed project site.

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Corps response: The FAA, as lead agency under NEPA and ESA for the proposed project (with the Corps as a cooperating agency), initiated informal consultation in writing with the FWS and addressed potential project impacts on IBW. The FWS concurred that the project is not likely to adversely affect the IBW, and that any affects are likely to be insignificant in that they would not reach the scale where take would occur (see paragraph 10.e above for details). Therefore, based on the above agency determinations and concurrences, reinitiation of formal consultation under ESA and preparation of a supplemental EIS in regards to potential project impacts on IBW is not required.

n. Comments received from Ms. Shepherdson of the NRDC on April 9, 2007 stated concerns regarding a master plan adopted on April 5, 2007 by NWFTCA, which identifies two proposed highway projects in the vicinity of the proposed relocated airport. Specifically, the concerns were that the FAA and Corps did not consider the impacts of these highways in reference to the proposed relocated airport in the EIS, that the Corps should disclose the impacts of these highways in a supplemental EIS for the airport relocation project, and that the proposed route of one of the highways would cross the Choctawhatchee River, its floodplain and associated conservation lands, in which claims have been made of sightings and other evidence for the presence of the Ivory-Billed Woodpecker.

Corps response: According to the NWFTCA's web site (www.nwftca.com), the NWFTCA was created by the 2005 Florida Legislature for the following purposes: to improve mobility on the U.S. 98 corridor in Northwest Florida to enhance traveler safety, identify and develop hurricane evacuation routes, promote economic development along the corridor, and implement transportation projects to alleviate current or anticipated traffic congestion. It is authorized to construct any feeder roads, reliever roads, connector roads, bypasses, or appurtenant facilities that are intended to improve mobility along the U.S. 98 corridor; and is authorized to plan, design, finance, and construct transportation improvement projects. On April 18 and 19, 2007 the Corps project manager contacted by telephone representatives of the consultant (HDR, Inc.), listed as the point of contact for the NWFTCA. The consultants informed the Corps project manager that, essentially there is no additional documentation regarding the NWFTCA approval of the list of projects in the master plan, other than what is available on the web site. The consultant said that the NWFTCA has been involved at this stage in a very preliminary, long-range, visioning process to deal with the U.S. 98 corridor, particularly in terms of traffic congestion, hurricane evacuation and economic development; and as of this time, there has been no analysis or effort in terms of, for example, actual need, funding, or environmental impacts for any of the projects on the

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master plan list. The consultants said that the next step for the NWFTCA is to develop some form of priority project list. The consultants provided to the Corps on April 20, 2007, a full-sized copy of the *Recommended Master Plan project map (Figure 2)*, which is captioned: "This conceptual master plan is for planning purposes of the Northwest Florida Transportation Corridor Authority and is subject to future revisions as contemplated by Section 342.80, Florida Statutes. Proposed corridor lines on this map are conceptual in nature and reflect possible future corridor locations which are subject to future review and analysis and are not intended to reflect the actual location of future roadways." The NWFTCA, according to the enabling legislation, is to provide the approved master plan list to the various county commissions and local Florida legislature delegations within 90 days of the approval. The Corps has not received permit applications, nor had been contacted by the NWFTCA, regarding Corps review or input regarding the two projects referenced by the NRDC. It is the Corps determination that additional analysis (including a supplemental EIS) beyond that documented in this response, is unwarranted, since: 1) the proposed highway projects have independent utility, as evidenced by the NWFTCA's purposes; 2) the projects are in a very preliminary review process; and it is unknown, if either of these two specific projects, will in fact, proceed to the stage to commence study of need, location, alternatives, funding, potential environmental impact, etc.; and 3) the Corps has not received a Section 404 permit application for either project. Surface transportation is addressed in Section 5.23 of the FEIS and in Section 9.19 of the FAA's ROD.

o. A letter received on May 17, 2007 from Mr. Werner the Friends of PFN, Inc. and Ms. Young of the Clean Water Network of Florida, alleged that St. Joe may be discharging dredged and fill materials into waters of the United States on the site for the proposed relocation of the PC Airport. The letter requested that the Corps investigate the matter, and take action to halt St. Joe from taking further action.

Corps response: In response to the report of potential unauthorized activities on the proposed project site, the Corps initiated an investigation, and found that approximately 16 acres of onsite wetlands had been mechanically landcleared, resulting in areas of unauthorized discharge of fill into Waters of the United States. The unauthorized activity was associated with geotechnical survey work done for the applicant for the proposed project. On July 17, 2007, the Corps issued a "Notification of Violation" to the applicant. On July 27, 2007, representatives of the applicant signed the "Consent to Resolve between the U.S. Army Corps of Engineers, Jacksonville District and Panama City – Bay County Airport and Industrial District." The "Consent to Resolve" closed the enforcement case and permitted continuance of the Corps evaluation of the permit application subject of this RODSOF. The "Consent to Resolve" requires the applicant to take certain remedial measures, including adoption of new site

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security protocols, and the following: 1) Mandatory training program specific to the Section 404 permitting aspects of the project for all contractors and subcontractors before they may conduct activities in or adjacent to wetlands; 2) Florida Stormwater, Erosion, and Sedimentation Control Inspector Training and Certification for certain contractors and subcontractors; 3) Bulletin board/kiosk would be located at the entrance to the proposed site where information, such as construction limits, copies of any federal or state permits, and maintenance of stormwater, erosion and sedimentation controls, would be posted; and 4) Installation of an environmental kiosk in the new airport, if permitted, describing the natural resources of West Bay, Bay County and/or the surrounding region. If a DA permit is not issued for this project, the Corps in its enforcement discretion, may proceed to file an action in Federal District Court for all remedies available under Federal law.

p. Comments received from Ms. Shepherdson of the NRDC on June 21, 2007 stated concerns regarding different acreages of “cypress” on the proposed relocation site, as cited in the FEIS (60.2 acres), the “draft 404 permit” (70.8 acres), and the Airport DSAP (493 acres). Since there was no draft 404 permit available for public review, the Corps has assumed that this citation is in reference to the public notice issued on May 2, 2005. Ms. Shepherdson also requested that an affidavit of Stephen E. Davis III, dated March 22, 2007, which was submitted to the United States Court of Appeals for the Second Circuit by the NRDC, Defenders of Wildlife and Friends of PFN in their challenge to the FAA’s ROD for this project, and which was attached with Ms. Shepherdson’s letter, be reviewed as part of the Corps’ ongoing evaluation of the application for a 404 permit for the proposed project. Comments from the affidavit, are summarized and addressed below in the Corps’ response.

(1) Project Site Cypress Acreage:

Corps response: The Corps acknowledges the differences in the acreages of “cypress” among various documents produced regarding this project. The acreage determinations among these documents were based on various pre-existing public data sources, differing degrees of effort in desk-top review of aerial photography and ground-truthing. In addition, the description of what is a “cypress” vegetative community differs among the various data sources, and is open to interpretation by individuals, as is individual review and degree of use of the various data sources, evaluation using aerial photography, and on the ground evaluation. Therefore, it is not unexpected, that there would be differences in the calculation of the acreage of the various vegetative communities on the project site among the documents cited by the commenter. The DSAP contained several different wetland habitat and acreage analyses, which were reviewed by the preparers of the DSAP, to estimate the area of wetlands and to

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describe the wetlands within the Airport DSAP. The 493 acres of “cypress” in the DSAP, as referenced by the commenter, was taken from an analysis from the Florida Gap Analysis Project (FGAP), which only used satellite imagery for its land classification. The FGAP vegetative group cited in the DSAP to comprise 493 acres, is identified as “Cypress Forest Compositional Group (CFCG). From the FGAP website the following description and disclaimer are found for CFCG: “This class represents cypress communities dominated by *Taxodium ascendens* and *T. distichum*. These communities include cypress domes (*T. ascendens*), and river and lake fringes (*T. distichum*). Confusion associated with this class may include overlap with pines and cypress/gum ponds within the pine flatwoods in which they all occur.” The wetlands on the project site are dominated by hydric pine forests and mixed wetland forests. It is the Corps position that the FGAP analysis is highly inaccurate, and appears to have included substantial areas of pine dominated wetlands within the CFCG. The inaccuracy and unreliability of this data source, which is based on satellite imagery no later than the early 1990’s for the project site, is further demonstrated by the identification of 58 acres of Brazilian Pepper Shrubland on the project site on the same table in the DSAP. Brazilian Pepper is a tropical exotic, invasive plant, which does not occur in northern Florida. In addition, the DSAP states: “Habitat estimates using GAP data appeared to overestimate wetlands in the proposed DSAP based on recent field verifications.” FGAP analysis was not used by the Corps in its evaluation specific to the function and value of the wetlands on the proposed project site. The delineation of the boundaries of wetlands for both the FEIS and Section 404 application were identical and were based on the Corps approved wetland jurisdictional determination for the proposed project site. Differences between the FEIS and Section 404 application analyses do exist regarding the description of wetland types using FLUCFCS, since the consultants for the FEIS and the consultants for the Section 404 application chose somewhat different FLUCFCS categories to describe on-site wetland vegetative communities. For example, the titi-bay-pine swamps referred to in the FEIS are referenced as mixed forested wetlands in the permit application and mitigation plan, while shrub wetlands correspond to the description of vegetated non-forested wetlands. The FEIS analysis also used more categories of wetlands, than that used for the Section 404 application analysis. However, both analyses were the product of detailed, on-the-ground fieldwork. It appears that the acreage of cypress as described in the FEIS is the more accurate in regards to acreage of wetlands comprising cypress heads and cypress sloughs with a very clear dominance of cypress, while the Section 404 application data includes some areas with substantial cypress, but not necessarily dominated by cypress. Thus the analysis for the Section 404 application overestimates cypress dominated wetlands on the project site. Overall, these inconsistencies between the FEIS and Section 404 wetland descriptions are inconsequential in the Corps’ overall evaluation of this project. From the Corps’ perspective it is important that the same

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team of consultants performed the Section 404 permit application analyses for both proposed project wetland impacts, and for the wetland compensatory mitigation plan to offset the proposed project's impacts to wetlands, thus assuring that a consistent perspective and approach was used to quantify and compare wetland functions for the determination of compensatory mitigation.

(2) Stephen E. Davis, III Affidavit: The Corps has reviewed Dr. Davis's affidavit. Overall, Dr. Davis's affidavit had four conclusions with various statements in support of each conclusion.

(a) Decision to relocate PFN to the West Bay site would result in significant adverse effects on the extensive aquatic and wetland environments in the greater West Bay area if carried out. Phase 1 will result in immediate loss of functional capacity of wetlands and streams that are pristine or have had minimal human disturbance. Onsite wetlands are mostly forested and easily distinguished from timbered areas and are natural/un-impacted. Water quality will be greatly impacted by project since the project will result in a hydrologic shift from a natural, 100% pervious landscape converted to a 50-70% impervious landscape in Phase 1, affecting water infiltration, surface water connectivity and subsurface hydrology of impacted and surrounding wetlands and thus water quality. Alteration of groundwater flows from project will result in "flashy", more seasonally variable, stormwater driven water surface flows and effect groundwater budget of down-system wetlands and "springs". Altered timing, magnitude and quality of water will negatively affect erosion/sedimentation patterns and cause algal blooms, decreased oxygen concentrations, fish kills and overall degradation of habitat in downstream ecosystems.

Corps response: The Corps has determined that the proposed project will not have a significant adverse impact on the aquatic environment, including wetlands, with the inclusion of the various mitigative measures, as described in the FEIS, the FAA's ROD and this RODSOF. The onsite wetlands are not pristine. The project site is heavily impacted by decades of silvicultural operations to produce pines trees on a commercial scale. Essentially half of the wetlands onsite have been converted to pine plantation (i.e. hydric pine plantation). Those remaining wetlands, not actively under pine silvicultural management, are embedded within a landscape comprised of a mosaic of pine plantation uplands and hydric pine plantation wetlands, which have been heavily impacted by the cyclical planting (with clear-cutting and bedding of the soil surface), intense management (which actively excludes fire, construction of roads and excavation of ditches), and harvesting, of a monoculture of pines. The Corps acknowledges that if Phase 1 is permitted and subsequently constructed, wetland functions will be lost within the footprint of direct impacts, some wetland functions would be lost from wetlands

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adjacent to indirect impact areas, and approximately 7,200 linear feet of non-wetland waters comprising small streams and tributary drainages would be lost. However, the applicant's mitigation plan and other mitigative actions, would more than adequately minimize and compensate for impacts to wetlands and the aquatic environment (see Section 9 for analyses of proposed project impacts, and various mitigative actions, including compensatory mitigation). See Corps response in paragraph 13.p(2)(d) below regarding water quality considerations. See paragraph 9.a(2) above and the Corps response in paragraph 13.e(23) above regarding stormwater design in regards to water circulation and fluctuation, and potential project impacts to groundwater.

(b) The mitigation plans, which are vague, incomplete and unsound, will not adequately mitigate for impacts associated with this development. The mitigation plan does not adhere to the Federal government's "no net loss" wetland policy; and there is no net addition of wetland acres. The hydrological restoration plan is vague with mention of culverts and low-water crossings, but no explanation of how these structures will be built or positioned to simulate natural hydrologic state. The goal of the mitigation plan is to convert areas of planted pine to wet pine flatwoods, wet pine savannas and mesic pine flatwoods, but the plans fail to describe how proposed hydrologic restoration will facilitate vegetation establishment in the mitigation area. How will hydrology be altered to suit growth of "native" pine species such as loblolly pine and other native species? There is no description of how the loss of 7,200 linear feet of channelized/stream systems on the project site will be mitigated. It seems that the plan seeks to create/restore streams in saturated soils/standing water environments with no description of micro-topographic relief and how it will be redesigned to allow surface flows into man-made channels. It is unsound to assume that "a trend toward the development of natural channel or flowing wetland geomorphology and hydrology should develop over time", given the lack of detail in regard to geomorphology, natural hydrologic regime and ignorance of the disturbance regime in the mitigation area. The excavation of ditches and culverts is described as integral components of the mitigation plan, but these will serve to convey water offsite more effectively, and is antithetical to wetland development. There would be ecological benefit, if these channels would function as natural waterways with a strong connection to floodplains, but this would require detailed sculpting of large areas of landscape across a created floodplain. The mitigation plan is unsound and unsustainable, since the mitigation area is located lower in the watersheds of Crooked Creek and Burnt Mill Creek, and thereby will not provide to these creeks a buffer against changes in water quality, timing and magnitude of flows resulting from the project. Collateral damage to these adjacent areas has not been addressed in the FAA's ROD, the FEIS, or mitigation plan. The mitigation wetlands will absorb the high surface water runoff and contaminant loading from the proposed airport, and will be degraded by future surrounding development in the West Bay area.

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Mitigation areas will be completely surrounded and cut-off from their natural, high-quality supply of surface and groundwater with a hydrologic regime dominated by flashy surface water inputs of poor quality. The mitigation plan fails to provide specifics with regard to performance standards. Detailed performance standards are needed, which are related to structural and functional attributes of ecosystems in the mitigation area.

Corps response: Dr. Davis's affidavit listed the documents for the proposed project, which he had reviewed. The final, detailed mitigation plan was not listed among them. The specific documents he references regarding the mitigation, are found either in the FEIS, which consisted of a six page synopsis and 18 pages of descriptive site maps for the three mitigation parcels; or in the FAA's ROD, which consisted of an updated 6 page mitigation synopsis and 10 pages of selected text and 14 pages of drawings and descriptive maps from a draft of the mitigation plan. The final mitigation plan is comprised of 173 pages of text, work plans and schedules, drawings and maps.

The proposed project, with the inclusion of the proposed compensatory mitigation plan, does comply with the national goal of "no net loss" of wetlands. Specifically as stated in RGL 02-02: "For wetlands, the objective is to provide, at a minimum, one-to-one functional replacement, i.e. no net loss of functions, with an adequate margin of safety to reflect anticipated success. Focusing on the replacement of the functions provided by a wetland, rather than only calculation of acreage impacted or restored, will in most cases provide a more accurate and effective way to achieve the environmental performance objectives of the no net loss policy." As demonstrated in paragraph 9.b(4)(b) above, the proposed compensatory mitigation plan would provide appropriate and practicable compensatory mitigation, account for time lag and risk, and would more than replace functional losses to the aquatic environment associated with proposed impacts to jurisdictional waters, including impacts to wetlands and streams.

It appears that the commenter misunderstands the plan, in that it appears he believes that the goal of the plan is to create wetlands from upland areas. The applicant's mitigation plan does not propose any wetland creation. Instead, the plan proposes to enhance and restore existing wetlands (and uplands), which have been heavily impacted by silvicultural operations and by a lack of fire, to a native landscape of fire-driven pine flatwoods and savannas with the restoration and enhancement of streams and waterways, and the protection and preservation of these restored ecosystems along with a substantial amount of West Bay shoreline (see paragraph 9.b(4)(b) above). Restoration of uplands on the sites would benefit adjacent wetlands.

The basic premise of the proposed mitigation plan is to stop the destructive cycle

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of intense silvicultural management, which has been occurring on the mitigation parcels for almost 50 years for the production of pine trees on a commercial scale, restore hydrology, and most importantly, re-introduce a more natural fire regime. The natural wetland and upland communities, which the mitigation plan would re-establish, are fire-driven. The establishment and cyclical planting and harvesting of monocultures of pines on the sites with fire suppression, have been the most ecologically damaging activities to have occurred on these sites. Though there has been substantial changes to hydrology on the mitigation sites by substantial ditching, stream channelization, berming and road construction associated with decades of silvicultural management; hydrological restoration is relatively straight-forward on these sites, since it does not require any reshaping of the landscape; but instead would require the filling of portions of ditches, that tend to drain water off of the site, and the conversion of dam-like road crossings to low-water crossings, so as to not to un-naturally impound water. Some roads would be completely removed. The proposed mitigation plan is detailed as to the type, location and timing of actions, which would be implemented to achieve the goals of the mitigation plan. Implementation of the mitigation plan would mitigate for the loss of streams and wetland drainages on the project site, through the enhancement and restoration of streams and drainages on the mitigation sites by filling or blocking approximately 34,000 linear feet of ditches; installation of approximately 47 low water crossings at existing wetland road crossings; and restoration of approximately 41,000 linear feet of previously channelized streams and wetland drainages to natural stream conditions. Another approximately 107,000 linear feet of stream and flowing wetland surface waters would be preserved and indirectly enhanced by surrounding mitigation activities and long-term ecological management of the mitigation sites. Excavation of additional ditches on the mitigation sites is not included in the mitigation plan. Installation of culverts at some existing road crossings through wetlands and/or flowways is included in the plan, in order to stop the unnatural impoundment of water and re-establish natural water flow, and to maintain adequate drainage for some roads, which would be necessary for access within the site for management of the site.

Potential project impacts and mitigation for these impacts on Crooked Creek and Burnt Mill Creek are discussed in paragraphs 9.a(2), (3) & (5) above. Sustainability of the mitigation sites is unrelated to their location in the watersheds of Crooked Creek and Burnt Mill Creek. The mitigation plan would help mitigate for project impacts to the aquatic environment, including receiving water bodies, most importantly of which is West Bay. The proposed project site does not directly drain onto or through the mitigation sites to Crooked Creek or Burnt Mill Creek. Secondary and cumulative impacts to receiving water bodies and the West Bay area, which would include the mitigation sites are addressed in paragraphs 9.a(7)/(8) and 10.g above.

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The proposed mitigation plan includes performance standards for various components of the plan. The standards provide characteristics and measures to be used to judge whether or not the goals of the mitigation plan have been achieved or are tending toward success. Major categories of performance standards include landscape level standards, ecological community standards and hydrologic standards. Baseline and post-mitigation implementation monitoring would be required to evaluate performance of the plan. Included in the mitigation plan is an adaptive management plan, which is related to the monitoring plan and is linked directly to the performance standards. The adaptive management plan would identify whether success is being achieved and to allow modification of mitigation activities to ensure success of the mitigation plan.

(c) The procedure (WRAP) used to assess the level of function in the permit area was entirely inappropriate: WRAP is not for use in natural wetlands, only in mitigation wetlands. WRAP overemphasizes wetland species and equates species with function, and soil properties lag behind vegetation in created wetlands. WRAP should not be used to compare different wetland types against each other. WRAP does not account for time lag for mitigation wetlands to achieve full natural wetland function. WRAP does not assess indirect impacts on wetlands of the development and operation of the airport.

Corps response: The Corps' Jacksonville District began using WRAP, beginning in the late 1990's, as a tool to evaluate and quantify predicted conditions on both impact sites and compensatory mitigation sites. In RGL 02-02 WRAP is explicitly referenced as an example of a functional assessment used by qualified professionals to determine wetland impacts and compensatory mitigation. In addition, RGL 02-02 recommends: 1) The use of watershed and ecosystem approaches when determining compensatory mitigation requirements to replace functional losses to aquatic resources, 2) Consider the resource needs of the watersheds where impacts would occur, 3) Consider the resource needs of neighboring watersheds, and that 4) Compensatory mitigation plans should be designed to include a mix of habitats, such as open water, wetlands, and adjacent uplands, so as to provide a greater variety of functions to benefit affected watersheds. Both time lag and risk were assessed in the WRAP analysis for this project, as were indirect impacts on adjacent wetlands to the project site (see paragraph 9.b(4)(b) above). The applicant's mitigation plan does not propose any wetland creation (see Corps response in paragraph 13.p(2)(b) above).

(d) The monitoring program to detect environmental change as a result of the proposed development is poorly designed and will not be sensitive enough to detect the full suite of environmental impacts associated with locating PFN to the West Bay site.

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Corps response: The Corps assumes that Dr. Davis is referring to the *Construction and Post-Development Water/Sediment Quality and Biological Monitoring Plan for the Panama City-Bay County International Airport Relocation*, implementation of which would be required (see special condition 11, paragraph 9.c above). The purpose of the plan is to document water quality conditions in downstream water bodies during airport construction and post-development periods, detect any significant changes in water quality, determine if those changes in water quality are a direct result of activities or conditions on the airport property, and to facilitate corrective action to alleviate water quality degradation related to construction or operation of the airport. The Corps purpose in requiring the implementation of the plan, is to assure that the required monitoring reports are provided to the FDEP, the governmental agency charged with primary responsibility regarding water quality in the State of Florida. The Corps would receive a copy of the reports. Water quality certification (*Ecosystem Management Agreement and Other Related Permits*) for the project was issued by the FDEP on December 1, 2006. Certification of compliance with applicable effluent limitations and water quality standards required under provisions of Section 401 of the CWA are considered to be conclusive with respect to water quality considerations unless the Regional Administrator, EPA, advises of other water quality aspects to be taken into consideration. The EPA did not advise the Corps of any water quality aspects to be taken under consideration.

q. Comments received from Ms. Shepherdson on July 13, 2007 requested clarification regarding use of borrow pits for fill on the proposed project site. Ms. Shepherdson stated that bidders for the project had priced the construction work to include the use of offsite borrow sites to provide fill for the project. Her comments centered on the assumption that offsite fill material would be piped as a slurry from the borrow sites to the proposed project site. Her concerns included slurry related impacts on the aquatic environment and on the Floridan Aquifer, and well-pointing to dewater the site during construction of the proposed project.

Corps response: On July 6, 2007 the Corps received from the FAA a copy of a letter, dated June 28, 2007, from the FAA to the applicant, which requested information from the applicant regarding the use of offsite borrow pits and haul routes to bring offsite fill material on to the proposed project site. On July 13, 2007 the Corps received the NRDC's letter regarding offsite borrow pits. In response to these letters the Corps contacted the applicant's environmental consultant (PBS&J) on July 17, 2007 requesting information and clarification regarding the use of offsite borrow pits and other concerns, as stated in the FAA's and NRDC's letters. The Corps provided copies of the

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letters to the consultant. An initial written response was received from PBS&J on July 19, 2007, which stated that fill may be procured from an offsite, licensed borrow pit, and possibly from an upland area located within the 4,000-acre project site. Attached to the letter was a location map showing the location and configuration of the two borrow areas in relation to the proposed project site and a copy of an agreement, comprising one of the exhibits of the construction contract between the applicant and any potential contractor, which would specifically address the use of the proposed offsite borrow site, road use and proposed project site access. Revised written responses were received on July 20 and 23, 2007 from PBS&J. The first revision clarified that the offsite borrow pit would not impact wetlands. The second revision deleted the potential, onsite borrow area, and said that no work was anticipated outside of the Phase 1 project boundary on the proposed project site.

The proposed project, as presented in early pre-application discussions, included two offsite borrow sites with associated wetland impacts. However, by the time an application was submitted to the Corps in April 2003, the applicant had deleted that aspect of the proposed project and had stated that all material would come from onsite.

According to the responses received from the applicant's consultant:

Borrow Pits: Initial preliminary estimates indicated that the amount of material needed for the proposed project could be obtained by "balancing" the site, i.e. that the amount of excavation would off-set the amount of material needed for fill, and therefore there would not be a need for offsite material. The FAA indicated that for airplane safety and wildlife protection reasons, the creation of depressions, that might create lakes and attract wildlife within certain limits of the runways, should be avoided. In light of this concern, and as design progressed and more detailed topographic information was obtained, it became clear that the site would not balance as first thought and that material might be needed from other sources. The amount of off-site borrow material necessary for the proposed project, if any, would depend on the amount of suitable material found on site. Since it is difficult to accurately determine this quantity prior to construction, an allowance would be included by the applicant in the contract for construction of the proposed project, for imported material to be used in the event that a sufficient quantity of suitable material is unavailable onsite. The designated "permitted borrow site" is approximately two miles west of the center of the project site. This existing borrow pit site is located on private property, is a permitted borrow site, has been used for years by others for other projects, and was not specifically permitted for use by the proposed airport project. There are no proposed wetland impacts at this borrow pit site. Haul routes from and to this borrow pit site to the proposed project site consist of existing logging roads and no impacts to wetlands are anticipated nor

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proposed. PBS&J did state, however, that the contractor could obtain approved material from any legal source they may have available to them, as dictated by material and transportation costs.

Transportation of Fill Material as a Slurry: Fill material would not be transported either onsite or from offsite to the site as a slurry. All fill material transportation would be by truck or scraper.

Dewatering Onsite: Any dewatering on the site that may occur would be minor and typically associated with the installation of underground utilities (stormwater pipes, water lines, sewer lines, etc) with depths typically in the 8-15 ft range where the groundwater reduction cone is very localized. All dewatering source water would be contained on-site and allowed to percolate back into the ground. No large scale dewatering or well-pointing activities are proposed.

Overall, the Corps accepts the responses of the applicant's consultant regarding the use of offsite borrow pits, in that there would be no wetland impacts beyond those already authorized for the proposed Phase 1 project, associated with either the obtaining of fill material from already permitted and licensed offsite borrow pits, or from the hauling of such fill material from offsite borrow pits to the proposed project site. In addition, the Corps accepts the applicant's statement that fill material will not be transported as a slurry and the relatively minor nature of proposed de-watering onsite. However, the Corps is concerned regarding the potential for work in both wetlands and uplands, which could occur on the proposed project site outside the Phase 1 project boundary. Such work could affect the findings of the FWS's BO, the compensatory mitigation calculations, and other matters, which are germane to this evaluation for the Section 404 permit application for this project. See special condition 5 in Section 9.c., which requires preservation (with some caveats) of the remaining wetlands and uplands outside of the Phase 1 project boundary on the proposed project site. This condition would be subject to future modification, in light of future requests by the applicant, such as for a future phase of the proposed, conceptual, multi-phase airport project, if such modification requests are submitted to, evaluated, and subsequently approved by the Corps.

r. Comments received during July and August 2007 on forty postcards and in two form letters included that the project would destroy almost 2,000 acres of wetlands and 7,200 linear feet of streams with an estimated 7,000 acres of wetlands lost to nearby development, which would destroy West Bay. The postcard requested the Corps to consider the alternatives developed by the FAA for the present airport. In addition, the letters extolled the value of cypress swamps and the cost of the proposed project to

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taxpayers.

Corps response: Reference Corps response in paragraph 13.j above.

14. Determinations:

a. Compliance with the National Environmental Policy Act: The Corps acted as Cooperating Agency in the preparation of the FEIS. All practicable means to avoid or minimize environmental harm from the alternative selected have been adopted.

b. Compliance with 404(b)(1) Guidelines: Having completed the evaluation in paragraph 9 above, I have determined that the proposed discharge complies with the 404(b)(1) guidelines.

c. Section 176(c) of the Clean Air Act General Conformity Rule Review: The proposed permit action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not exceed de minimis levels of direct or indirect emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit action.

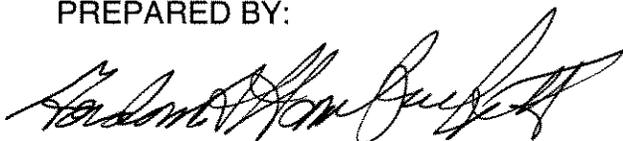
d. Public Hearing Request: I have reviewed and evaluated the requests for a public hearing. There is sufficient information available to evaluate the proposed project; therefore, the requests for a public hearing are denied.

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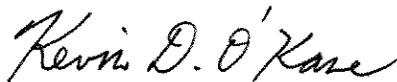
e. Public Interest Determination: I find that issuance of a Department of the Army permit is not contrary to the public interest.

PREPARED BY:



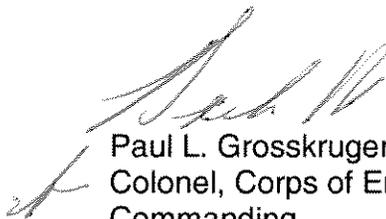
Gordon A. Hambrick, III
Project Manager
North Permits Section

REVIEWED BY:



Kevin D. O'Kane
Acting Chief, North Permits Branch

APPROVED BY:



Paul L. Grosskruger
Colonel, Corps of Engineers
Commanding