

(a) Damage to real property caused by flooding, saturation, seepage, erosion, or other causes arising out of the construction, operation, or maintenance of an authorized project.

(b) Damage as a result of overflights of aircraft.

(c) Other instances where Government actions result in a restriction of the use of property.

#### § 644.103 Litigation Reports.

In those cases where a landowner files suit alleging that the Government took his property or an interest therein, a litigation report should be furnished in accordance with ER 1180-1-1. Litigation reports will be submitted in quadruplicate in cases involving military installations, and in triplicate in cases involving civil works. District and Division Engineers will furnish an additional copy direct to the local United States Attorney in actions in a United States District Court. In addition to the information required by ER 1180-1-1, there will be furnished preliminary certificates of title to properties subject to the taking, covering a period of search of at least 25 years prior to initiation of the action, and indicating the date of acquisition of the plaintiff's interest. Certificates may be procured commercially, or may be prepared by a staff attorney.

(a) *Avigation Easements.* Reports on actions alleging the taking of an avigation easement should include the following information together with supporting exhibits:

(1) Permanency of the installation and its designated use;

(2) Dates of commencement of use of the runway involved and of each extension thereof;

(3) Date of commencement of take-offs and landings by regularly assigned aircraft of the type (identify) causing the taking;

(4) Frequency and actual height of flight of the particular aircraft over some portion of plaintiff's property;

(5) Any applicable zoning regulations affecting use of the property;

(6) A drawing at an approximate scale of 1" to 400' showing the location and length of the present runway, its original length, and each extension, and also showing the location of plain-

tiff's property with relation to the approach-departure zone of the runway and the longitudinal distance in feet, measured along the extended center line from the end of the runway and the lateral distance measured perpendicular to the extended center line, of the plaintiff's property and of any dwellings thereon.

(7) A vertical projection of the drawing at an approximate scale 1" to 100' showing the approach-departure clearance surface at the specified slope ratio and the mean sea level heights of the end of the runway and of the plaintiff's property and any dwellings thereon; and

(8) Name of the person qualified to testify concerning preparation of the drawing.

(b) *Clearance Easements.* Litigation reports on actions alleging the taking of a clearance easement will contain the following:

(1) Details of any prior acquisition of clearance easements over the same property;

(2) Statement as to any outstanding clearance easement directives, including criteria for approach and transition zones, status of negotiations, and copies of appraisal reports;

(3) Statement that all acquisition of clearance easements has been stopped, unless their prompt acquisition is necessary to provide for current flight operation; and

(4) Recommendation that there be included in the estate, in the event of settlement, provisions for the clearance of existing obstructions and prohibition against future obstructions, provided that circumstances will permit a delay in the acquisition of a clearance easement until completion of the litigation.

(c) *Appraisal Reports.* Appraisal reports will be submitted to HQDA (DAEN-REE) WASH DC 20314 after the Department of Justice has determined the date (or dates) of taking. These reports will reflect the "before" and "after" values of the property, based on the assumption that the United States acquired an easement on that date (or dates).