APPENDIX 14
PUBLIC NOTICE DOCUMENTS

PUBLIC NOTICE

Publication Date: July 17, 2020

Expiration Date: August 16, 2020 30 Days After Date of Publication

TO WHOM IT MAY CONCERN:

Pursuant to the implementing regulations of the National Environmental Policy Act and Federal Aviation Administration policies and procedures for implementing NEPA, the Elkins-Randolph County Regional Airport Authority is hereby providing official notice of public review for the Environmental Assessment document prepared for the following project:

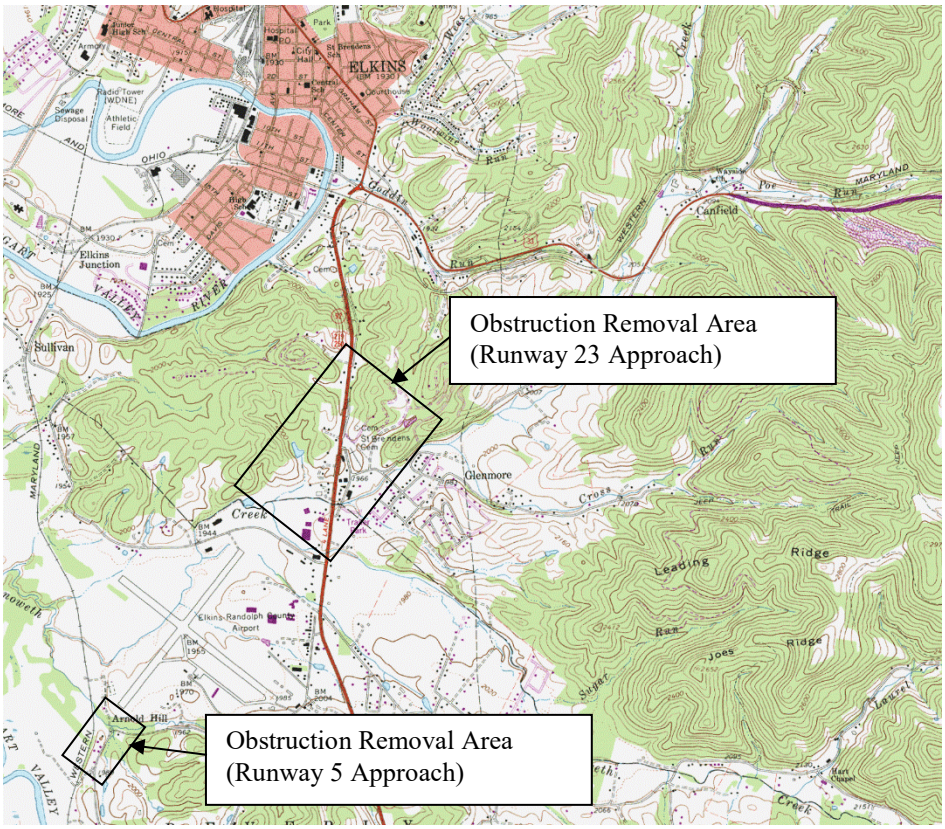
Elkins-Randolph County Regional Airport – Obstruction Removal (Runway 5-23 Approaches)
(Name of Project)

Elkins-Randolph County Regional Airport Authority – 400 Airport Road, Elkins, WV 26241
(Name and address of Sponsor)

This is an issuance of a revised draft Environmental Assessment based on comments received during the public review period for the review draft issued January 2020.

DESCRIPTION OF THE ACTIVITY: The Elkins-Randolph County Regional Airport Authority is pursuing a project to address obstructions in the approach surfaces of Runways 5 and 23 at the Elkins-Randolph County Regional Airport. The project will consist of clearing 16.14 acres of trees, trimming 12.37 acres of trees and removing or lowering 5 structures.

PROJECT LOCATION: The proposed project will occur in the vicinity of the Elkins-Randolph County Regional Airport in Elkins, West Virginia. The proposed project locations are generally shown below.



INFORMATION AVAILABLE: The revised draft Environmental Assessment document is available for public review at the following locations:

Chapman Technical Group
43 East Main Street
Buckhannon, West Virginia 26201
Phone: (304) 472-8914

Randolph County Commission
4 Randolph Avenue, Suite 102
Elkins, West Virginia 26241
Phone: (304) 636-2057

Elkins-Randolph County Regional Airport
400 Airport Road
Elkins, West Virginia 26241
Phone: (304) 636-2726

Helvetia Public Library
4901 Pickens Road
Helvetia, West Virginia 26224
Phone: (304) 924-5063

Pioneer Memorial Public Library
22526 Allegheny Highway
Harman, West Virginia 26270
Phone: (304) 227-4788

Russell Memorial Public Library
219/250 South
Mill Creek, West Virginia 26280
Phone: (304) 335-6277

Please consider calling ahead, as some locations may implement additional precautions or have modified hours due to COVID-19.

The revised draft Environmental Assessment document is also available online for review at http://elkinsairport.com.

COMMENTS: Comments and information relating to the revised draft Environmental Assessment for the proposed activity are hereby solicited. Such information on the activity's impact will be considered if received prior to the expiration date of this notice. Any comments should be emailed or submitted in writing to:

Melissa Defibaugh, PE
MDefibaugh@chaptech.com
Chapman Technical Group
43 East Main Street
Buckhannon, West Virginia 26201

Airport Manager
Manager@elkinsairport.com
Elkins-Randolph Co. Regional Airport
400 Airport Road
Elkins, West Virginia 26241

Susan Stafford, Environmental Protection Specialist
Susan.Stafford@faa.gov
Beckley Airports Field Office
176 Airport Circle, Rm 101
Beaver, West Virginia 25813

Comments and information postmarked or emailed later than the expiration date may not be considered.

Classified/Legal Advertising Invoice

The Inter-Mountain Legals

PO Box 1339

Elkins, WV
26241
(304) 636-2121

ELKINS-RANDOLPH CO AIRPORT AUTHORITY
ROUTE 4 BOX 271-1

ELKINS, WV

26241

07/10/2020 1:33:08PM

Phone: 304 636-2726

No: 74392

Ad No	Customer No:	Start Date	Stop Date	Category:	Classification:
74392	**L04302**	**07-17-2020**	**07-24-2020**	**Announcements**	**Legal Notices**

Order No	Rate:	Lines:	Words:	Inches:		Cost	Payments	Balance
	LE	**115**	**450**	**11.16**		**446.53**	**.00**	**446.53**

Publications ... Runs	Solicitor:	Origin:	Sales Rep:	Credit Card	Credit Card Number	Card Expire
Legals ... 2	**JH**	**0**	**0**			
WV Online Legals ELK ... 2						

Identifier
PUBLIC NOTICE
Publication Date: July 17, 2020
Expiration Date: August 16, 2020
30 Days After Date of

*=Extend Expiration Date

ADNo: 74392 Customer Number: L04302
Customer Name: Company: ELKINS-RANDOLPH CO A
Address: ROUTE 4 BOX 271-1
City/St/Zip: ELKINS ,WV 26241
Phone: (304) 636-2726 Solicitor: JH
Category: 10 Class: 1000 Rate: LE-0 Start: 7-17-2020 Stop: 7-24-2020
Lines: 115 Inches: 11.16 Words: 450

Credit Card: Expire:
Order Number:
Cost: 444.53 Extra Charges: 2.00 Adjustments: .00
Payments: .00 Discount: .00
Balance: 446.53

PUBLIC NOTICE

Publication Date: July 17, 2020

Expiration Date: August 16, 2020 30 Days After Date of Publication

TO WHOM IT MAY CONCERN:

Pursuant to the implementing regulations of the National Environmental Policy Act and Federal Aviation Administration policies and procedures for implementing NEPA, the Elkins-Randolph County Regional Airport Authority is hereby providing official notice of public review for the Environmental Assessment document prepared for the following project:

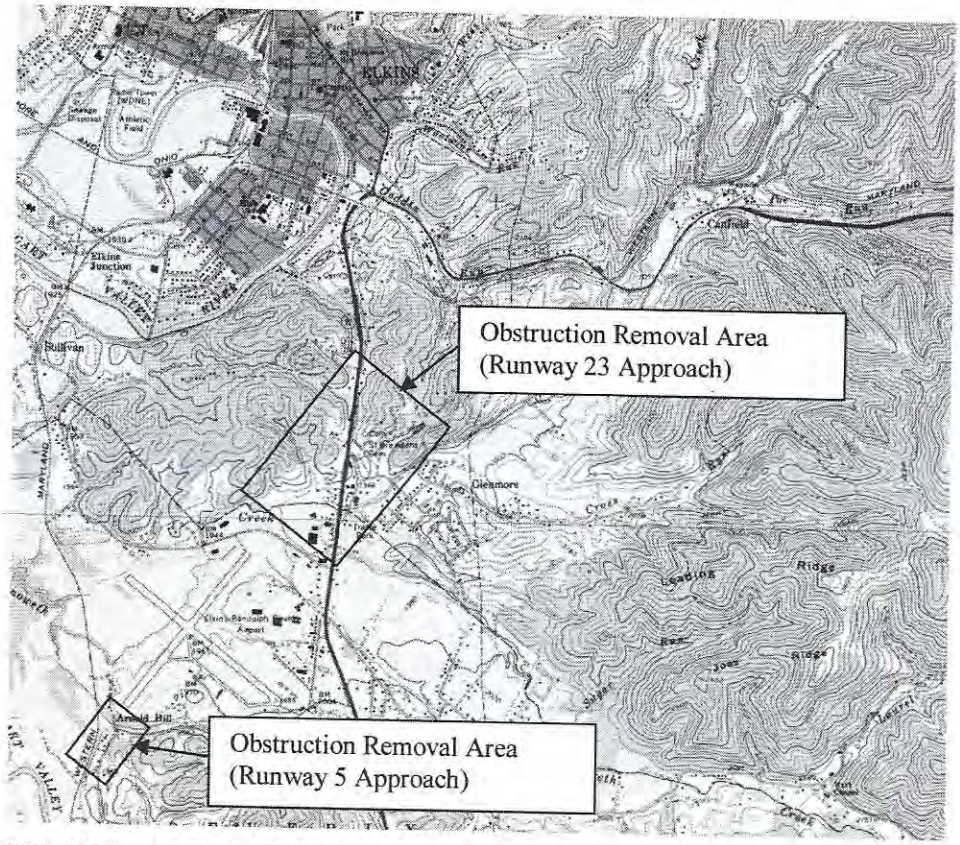
Elkins-Randolph County Regional Airport – Obstruction Removal (Runway 5-23 Approaches)
(Name of Project)

Elkins-Randolph County Regional Airport Authority – 400 Airport Road, Elkins, WV 26241
(Name and address of Sponsor)

This is an issuance of a revised draft Environmental Assessment based on comments received during the public review period for the review draft issued January 2020.

DESCRIPTION OF THE ACTIVITY: The Elkins-Randolph County Regional Airport Authority is pursuing a project to address obstructions in the approach surfaces of Runways 5 and 23 at the Elkins-Randolph County Regional Airport. The project will consist of clearing 16.14 acres of trees, trimming 12.37 acres of trees and removing or lowering 5 structures.

PROJECT LOCATION: The proposed project will occur in the vicinity of the Elkins-Randolph County Regional Airport in Elkins, West Virginia. The proposed project locations are generally shown below.



INFORMATION AVAILABLE: The revised draft Environmental Assessment document is available for public review at the following locations:

Chapman Technical Group
43 East Main Street
Buckhannon, West Virginia 26201
Phone: (304) 472-8914

Elkins-Randolph County Regional Airport
400 Airport Road
Elkins, West Virginia 26241
Phone: (304) 636-2726

Pioneer Memorial Public Library
22526 Allegheny Highway
Harman, West Virginia 26270
Phone: (304) 227-4788

Randolph County Commission
4 Randolph Avenue, Suite 102
Elkins, West Virginia 26241
Phone: (304) 636-2057

Helvetia Public Library
4901 Pickens Road
Helvetia, West Virginia 26224
Phone: (304) 924-5063

Russell Memorial Public Library
219/250 South
Mill Creek, West Virginia 26280
Phone: (304) 335-6277

Please consider calling ahead, as some locations may implement additional precautions or have modified hours due to COVID-19.

The revised draft Environmental Assessment document is also available online for review at http://elkinsairport.com.

COMMENTS: Comments and information relating to the revised draft Environmental Assessment for the proposed activity are hereby solicited. Such information on the activity's impact will be considered if received prior to the expiration date of this notice. Any comments should be emailed or submitted in writing to:

Melissa Defibaugh, PE
MDefibaugh@chaptech.com
Chapman Technical Group
43 East Main Street
Buckhannon, West Virginia 26201

Airport Manager
Manager@elkinsairport.com
Elkins-Randolph Co. Regional Airport
400 Airport Road
Elkins, West Virginia 26241

Susan Stafford, Environmental Protection Specialist
Susan.Stafford@faa.gov
Beckley Airports Field Office
176 Airport Circle, Rm 101
Beaver, West Virginia 25813

Comments and information postmarked or emailed later than the expiration date may not be considered.
7-17, 7-24

PUBLIC NOTICE

Publication Date: January 24, 2020

Expiration Date: February 23, 2020 30 Days After Date of Publication

TO WHOM IT MAY CONCERN:

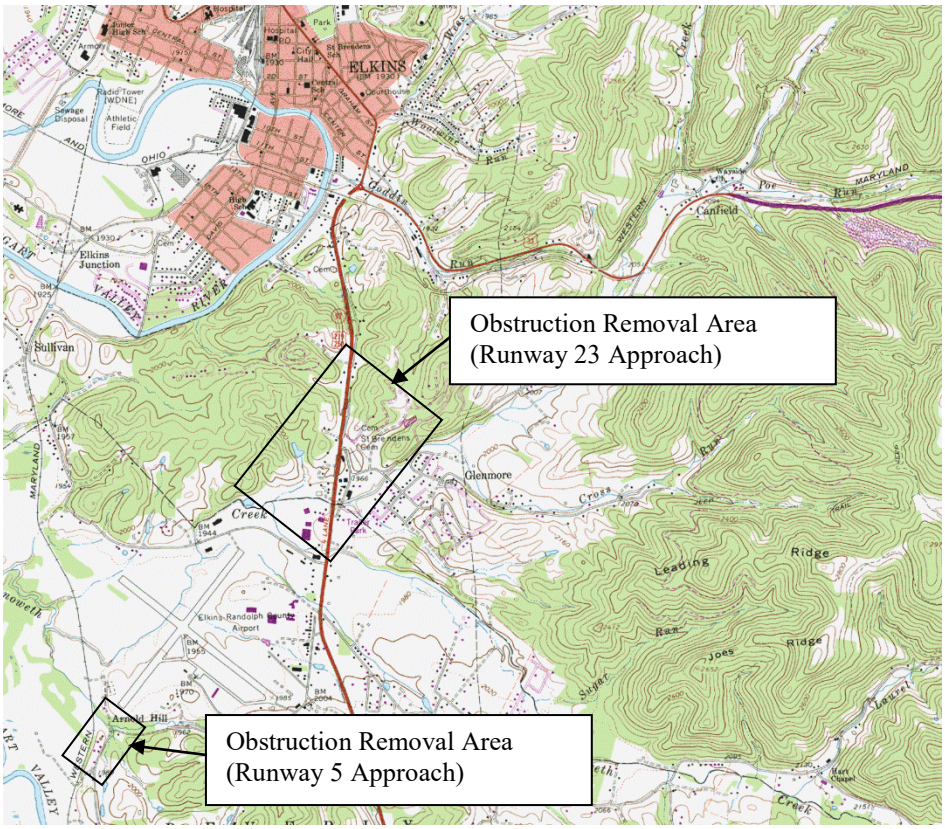
Pursuant to the implementing regulations of the National Environmental Policy Act and Federal Aviation Administration policies and procedures for implementing NEPA, the Elkins-Randolph County Regional Airport Authority is hereby providing official notice of public review for the Environmental Assessment document prepared for the following project:

Elkins-Randolph County Regional Airport – Obstruction Removal (Runway 5-23 Approaches)
(Name of Project)

Elkins-Randolph County Regional Airport Authority – 400 Airport Road, Elkins, WV 26241
(Name and address of Sponsor)

DESCRIPTION OF THE ACTIVITY: The Elkins-Randolph County Regional Airport Authority is pursuing a project to address obstructions in the approach surfaces of Runways 5 and 23 at the Elkins-Randolph County Regional Airport. The project will consist of clearing 16.14 acres of trees, trimming 12.37 acres of trees and removing or lowering 5 structures.

PROJECT LOCATION: The proposed project will occur in the vicinity of the Elkins-Randolph County Regional Airport in Elkins, West Virginia. The proposed project locations are generally shown below.



INFORMATION AVAILABLE: The Environmental Assessment document is available for public review between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, at the following locations:

Chapman Technical Group
43 East Main Street
Buckhannon, West Virginia 26201

Elkins-Randolph County Public Library
416 Davis Avenue
Elkins, West Virginia 26241

Elkins-Randolph County Regional Airport
400 Airport Road
Elkins, West Virginia 26241

The Environmental Assessment document is also available online for review at http://elkinsairport.com.

PUBLIC HEARING: A public hearing on the Draft EA will be held on Wednesday, February 12, 2020, at 6:00 pm local time in the Randolph County Commission Chambers at the James F. Cain Annex.

COMMENTS: Comments and information relating to the Environmental Assessment for the proposed activity are hereby solicited. Such information on the activity's impact will be considered if postmarked prior to the expiration date of this notice. All comments and information should be submitted in writing and should be mailed to:

Melissa Defibaugh, PE
Chapman Technical Group
43 East Main Street
Buckhannon, West Virginia 26201

Airport Manager
Elkins-Randolph Co. Regional Airport
400 Airport Road
Elkins, West Virginia 26241

Comments and information postmarked later than the expiration date may not be considered. Comments received on the Draft EA and the responses to those comments will be disclosed in the Final EA.

State of West Virginia, County of Randolph, ss.

I, Brad Johnson, Executive Editor of THE INTER-MOUNTAIN, a newspaper published at Elkins, in said county, do hereby certify that the annexed advertisement was published on the following dates:

1/24 1/31 _____ _____

20 20 as required by law.

Given under my hand this 3rd day of Feb 20 20

Executive Editor

OFFICIAL SEAL
NOTARY PUBLIC
STATE OF WEST VIRGINIA
LORI D. SMITH
THE INTER-MOUNTAIN
520 RAILROAD AVE., PO BOX 1339
ELKINS, WV 26241
My commission expires November 02, 2020

Printer's Fee: $ 250.72

Subscribed and sworn to before me this 3rd day of February, 20 20

Lori D. Smith
Notary Public

My Commission Expires the 2nd day of November, 20 20

ADNo: 74125 Customer Number: L04302
Customer Name: Company: ELKINS-RANI
Address: ROUTE 4 BOX 271-1
City/St/Zip: ELKINS ,WV 26241
Phone: (304) 636-2726 Solicitor: JH
Category: 10 Class: 1000 Rate: LE-0 Start: 1-24-2020 St
Lines: 96 Inches: 9.38 Words: 395

Credit Card: Expire:
Order Number:
Cost: 248.72 Extra Charges: 2.00 Adjustments: .00
Payments: .00 Discount: .00
Balance: 250.72

PUBLIC NOTICE

Publication Date: January 24, 2020

Expiration Date: February 23, 2020 30 Days After Date of Publication

TO WHOM IT MAY CONCERN:

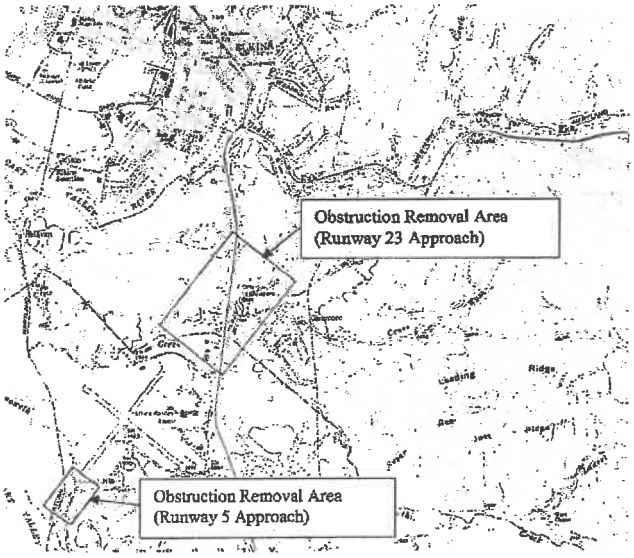
Pursuant to the implementing regulations of the National Environmental Policy Act and Federal Aviation Administration policies and procedures for implementing NEPA, the Elkins-Randolph County Regional Airport Authority is hereby providing official notice of public review for the Environmental Assessment document prepared for the following project:

Elkins-Randolph County Regional Airport – Obstruction Removal (Runway 5-23 Approaches)
(Name of Project)

Elkins-Randolph County Regional Airport Authority – 400 Airport Road, Elkins, WV 26241
(Name and address of Sponsor)

DESCRIPTION OF THE ACTIVITY: The Elkins-Randolph County Regional Airport Authority is pursuing a project to address obstructions in the approach surfaces of Runways 5 and 23 at the Elkins-Randolph County Regional Airport. The project will consist of clearing 16.14 acres of trees, trimming 12.37 acres of trees and removing or lowering 5 structures.

PROJECT LOCATION: The proposed project will occur in the vicinity of the Elkins-Randolph County Regional Airport in Elkins, West Virginia. The proposed project locations are generally shown below.



INFORMATION AVAILABLE: The Environmental Assessment document is available for public review between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, at the following locations:

Chapman Technical Group
43 East Main Street
Buckhannon, West Virginia 26201

Elkins-Randolph County Public Library
416 Davis Avenue
Elkins, West Virginia 26241

Elkins-Randolph County Regional Airport

PUBLIC NOTICE

Publication Date: January 24, 2020

Expiration Date: February 23, 2020 30 Days After Date of Publication

TO WHOM IT MAY CONCERN:

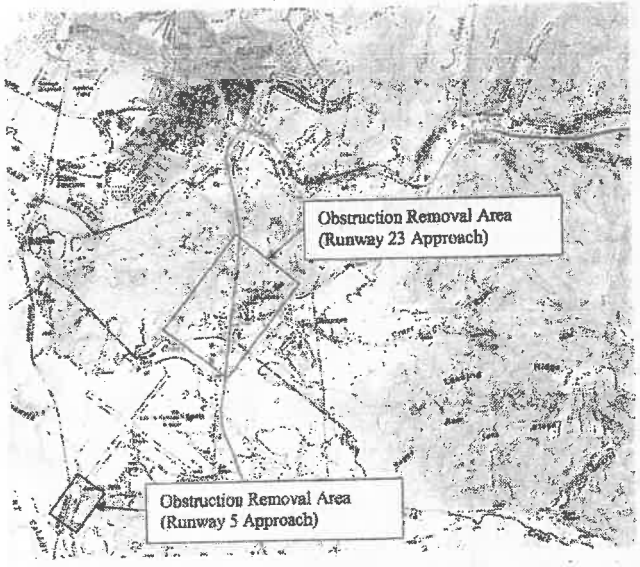
Pursuant to the implementing regulations of the National Environmental Policy Act and Federal Aviation Administration policies and procedures for implementing NEPA, the Elkins-Randolph County Regional Airport Authority is hereby providing official notice of public review for the Environmental Assessment document prepared for the following project:

Elkins-Randolph County Regional Airport – Obstruction Removal (Runway 5-23 Approaches)
(Name of Project)

Elkins-Randolph County Regional Airport Authority – 400 Airport Road, Elkins, WV 26241
(Name and address of Sponsor)

DESCRIPTION OF THE ACTIVITY: The Elkins-Randolph County Regional Airport Authority is pursuing a project to address obstructions in the approach surfaces of Runways 5 and 23 at the Elkins-Randolph County Regional Airport. The project will consist of clearing 16.14 acres of trees, trimming 12.37 acres of trees and removing or lowering 5 structures.

PROJECT LOCATION: The proposed project will occur in the vicinity of the Elkins-Randolph County Regional Airport in Elkins, West Virginia. The proposed project locations are generally shown below.



INFORMATION AVAILABLE: The Environmental Assessment document is available for public review between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, at the following locations:

Chapman Technical Group
43 East Main Street
Buckhannon, West Virginia 26201

Elkins-Randolph County Public Library
416 Davis Avenue
Elkins, West Virginia 26241

Elkins-Randolph County Regional Airport
400 Airport Road
Elkins, West Virginia 26241

The Environmental Assessment document is also available online for review at http://elkinsairport.com.

PUBLIC HEARING: A public hearing on the Draft EA will be held on Wednesday, February 12, 2020, at 6:00 pm local time in the Randolph County Commission Chambers at the James F. Cain Annex.

COMMENTS: Comments and information relating to the Environmental Assessment for the proposed activity are hereby solicited. Such information on the activity's impact will be considered if postmarked prior to the expiration date of this notice. All comments and information should be submitted in writing and should be mailed to:

Melissa Defibaugh, PE
Chapman Technical Group
43 East Main Street
Buckhannon, West Virginia 26201

Airport Manager
Elkins-Randolph Co. Regional Airport
400 Airport Road
Elkins, West Virginia 26241

Comments and information postmarked later than the expiration date may not be considered. Comments received on the Draft EA and the responses to those comments will be disclosed in the Final EA.
1-24, 1-31

400 Airport Road
Elkins, West Virginia 26241

The Environmental Assessment document is also available online for review at http://elkinsairport.com.

PUBLIC HEARING: A public hearing on the Draft EA will be held on Wednesday, February 12, 2020, at 6:00 pm local time in the Randolph County Commission Chambers at the James F. Cain Annex.

COMMENTS: Comments and information relating to the Environmental Assessment for the proposed activity are hereby solicited. Such information on the activity's impact will be considered if postmarked prior to the expiration date of this notice. All comments and information should be submitted in writing and should be mailed to:

Melissa Defibaugh, PE	Airport Manager
Chapman Technical Group	Elkins-Randolph Co. Regional Airport
43 East Main Street	400 Airport Road
Buckhannon, West Virginia 26201	Elkins, West Virginia 26241

Comments and information postmarked later than the expiration date may not be considered. Comments received on the Draft EA and the responses to those comments will be disclosed in the Final EA.
1-24, 1-31

Attachment 1

Comment Number	Commenter	Section/Page/ Table/Appendix	Comment Summary	Section/Page/ Table/Appendix	Comment Response
1	Harry & Mina Cupp	S1/P5/T1.2	The EA dramatically overstates the amount of airport operations	S1/P5/T1.2/A1	The General Aviation Activity Forecasts, included as Appendix 1, (Chapter 3 of the previously prepared Elkins-Randolph County Regional Airport Master Plan), states that the Airport Master Record, FAA's Form 5010, contains a record of activity levels at the airport. The FAA Form 5010 contains aeronautical data describing the physical and operational characteristics of civil public-use airports as well as joint-use military airports and private-use military airports that are active and in the National Airspace System. The form is a computer report containing date that is stored in and derived from the National Airspace System Resources database. The operations indicated on the current FAA Form 5010 are 10,500. The 8,506 total operations included in Table 1.2 are less than the 10,500 indicated on the current FAA Form 5010. Chapter 3 indicates that there are "inherent shortcomings" with the records and reports maintained by small airport operators. The airport maintains a written log of aircraft operations during office hours, typically, only recording operations for which the airport can document a tail number associated with the operation. Because the airport is recording operations during office hours only, operations not accounted for in the 8,506 operations are those occurring at night and on the weekend. The FAA form 5010 is included in Appendix 14 as Attachment 2.
2	Harry & Mina Cupp	S6(N)(3)/P42	The EA fails to account for increased erosion and its effect on surrounding streams and watershed	S6(N)(3)/P42 & 43	In order to minimize the creation of erodible surfaces, the Proposed Action will include removing stumps through a stump grinding process instead of through a traditional grubbing operation with dozers or graders. This method will limit the amount of disturbance to existing ground cover to the level of disturbance associated with the movement of equipment across the ground surface. The Contractor performing the tree removal will be required to adhere to the best management practices developed by the West

					Virginia Division of Forestry and the West Virginia Department of Environmental Protection to address the creation and transportation of sediment. These measures include the installation of sediment control devices to provide a structural control to prevent excessive sediment creation or transportation. In order to minimize increases in surface water runoff, the existing leaf litter ground cover will be left in place to the maximum extent possible. The leaf litter ground cover will help reduce the surface water runoff rate and will help promote surface water infiltration as opposed to surface water runoff. The Proposed Action will also include seeding all obstruction removal areas to establish an adequate stand of grass cover to help stabilize the surface soils. Grass ground cover also assists in the reduction of the surface runoff rate by creating openings in the soil surface to promote water infiltration. Trees may be felled and left in place to minimize erosion on slopes at the discretion of individual landowners.
3	Harry & Mina Cupp		The EA oversimplifies the completion of the project by not taking into account that the project will be contested by impacted landowners with the possibility of litigation associated with condemnation. The EA contemplates entry on, and obstruction removal from, 35 different landowners. In preparation of the EA, the Airport Authority was forced to bring suit for a mandatory injunction just to gain access to conduct the study. At least one landowner was not noticed at all		The purpose of the EA is to consider the environmental impacts when deciding whether or not to proceed with a project, and, if a decision is made to proceed with the project, how to proceed with the project in an environmentally responsible manner. The EA is the first phase of the proposed project. Without further clarification, it is not possible to ascertain the specific landowner referenced in the comment. Presuming this comment refers to Mark & Bonnie Branciaroli based on their submitted public comment, while the project area is in the vicinity of their property, no tree trimming or clearing will occur within the confines of their property.
4	Harry & Mina Cupp		The EA fails to account for the increased cooling costs to property owners based on the removal of “Shade” trees		The purpose of the EA is to consider the environmental impacts when deciding whether or not to proceed with a project, and, if a decision is made to proceed with the project, how to proceed with the project in an environmentally responsible manner. Environmental Consequences are evaluated in Section 6 including Air Quality (evaluated in accordance with the

					requirements of the Clean Air Act); Biological Resources (evaluated through consultation with USFWS – Appendix 7); Climate (N/A); Coastal Resources (N/A); Section 4(f) resources (evaluated through consultation with the West Virginia Division of Culture and History – Appendix 8); Farmlands (evaluated through Natural Resource Conservation Service Web Soil Survey – Appendix 6); Hazardous Materials, Solid Waste, and Pollution Prevention (evaluated through review of the US EPA National Priorities List); Historic Architectural, Archeological, and Cultural Resources (evaluated through consultation with the West Virginia Division of Culture and History – Appendix 8) ; Land Use (will be performed in accordance with the Uniform Act and FAA AC 150/5100-17); Natural Resources and Energy Supply (limited applicability due to project duration); Noise and Noise-Compatible Land Use (evaluated in accordance with FAA Order 1050.1F); Socioeconomics, Environmental Justice, and Children's Environmental Health and Safety Risks (evaluated based on United States Census Bureau data – Appendix 9); Visual Effects Including Light Emissions(evaluated by project area and individual residences through visual resources plan – Appendix 10) ; Water Resources (evaluated through consultation with USACE, WVDHHR, and WVDEP as well as FEMA review – Appendix 11, 12 and 13); Cumulative Impacts (evaluated in consultation with the Randolph County Commission). Any increased cooling costs to parcel owners would be evaluated in accordance with the Uniform Act and Advisory Circular 150/5100-17 *Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects* Section 3.2.1 states – Basic Negotiation Procedures – The sponsor must make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses. The owner must be given reasonable opportunity to consider the offer and present material that the owner

					believes is relevant in determining the property value, and to suggest modification of the proposed purchase terms and conditions. The Uniform Act and FAA AC 150/5100-17 has been included in the EA in Appendix 14 as Attachment 4.
5	Harry & Mina Cupp	S(6)(i)(1)/P24, S6(L)(2)/P26	Impacts to silos will reduce feed storage, and force less cattle raised or need to build additional silos which will result in lost revenue indefinitely, or less useable land requiring additional work and materials which is not accounted for in the EA.	S(6)(i)(1)/P24	The purpose of the EA is to consider the environmental impacts when deciding whether or not to proceed with a project, and, if a decision is made to proceed with the project, how to proceed with the project in an environmentally responsible manner. The EA is only a part of the project process. Should the project proceed-Advisory Circular 150/5100-17 *Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects* Section 3.2.1 states – Basic Negotiation Procedures – The sponsor must make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses. The owner must be given reasonable opportunity to consider the offer and present material that the owner believes is relevant in determining the property value, and to suggest modification of the proposed purchase terms and conditions. In addition to Advisory Circular 150/5100-17, the Airport must comply with Uniform Relocation Assistance and Real Property Acquisition Policies Act (the Uniform Act) for the proposed easement acquisitions and impacts to the dairy farm silos. The Uniform Act and FAA AC 150/5100-17 has been included in the EA in Appendix 14 as Attachment 4.
6	Harry & Mina Cupp		Before asking the surrounding land owners to bear the burden of this frivolous project, it is inclement on the airport Authority to provide the public with accurate data that correctly reflects the circumstances, before, during, and after the project is complete. We ask the FAA to reject the proposed EA until such time as the data is provided	S6, S8/P47	The purpose of the EA is to consider the environmental impacts when deciding whether or not to proceed with a project, and, if a decision is made to proceed with the project, how to proceed with the project in an environmentally responsible manner. Environmental Consequences are evaluated in Section 6 including Air Quality (evaluated in accordance with the

					requirements of the Clean Air Act in EA document); Biological Resources (evaluated through consultation with USFWS – Appendix 7); Climate (N/A); Coastal Resources (N/A); Section 4(f) resources (evaluated through consultation with the West Virginia Division of Culture and History – Appendix 8); Farmlands (evaluated through Natural Resource Conservation Service Web Soil Survey – Appendix 6); Hazardous Materials, Solid Waste, and Pollution Prevention (evaluated through review of the US EPA National Priorities List in EA document); Historic Architectural, Archeological, and Cultural Resources (evaluated through consultation with the West Virginia Division of Culture and History – Appendix 8) ; Land Use (will be performed in accordance with the Uniform Act and FAA AC 150/5100-17); Natural Resources and Energy Supply (limited applicability due to project duration); Noise and Noise-Compatible Land Use (evaluated in accordance with FAA Order 1050.1F in EA document); Socioeconomics, Environmental Justice, and Children's Environmental Health and Safety Risks (evaluated based on United States Census Bureau data – Appendix 9); Visual Effects Including Light Emissions(evaluated by project area and individual residences through visual resources plan – Appendix 10) ; Water Resources (evaluated through consultation with USACE, WVDHHR, and WVDEP as well as FEMA review – Appendix 11, 12 and 13); Cumulative Impacts (evaluated in consultation with the Randolph County Commission in EA document). Mitigation is evaluated in Section 8.
7	J & S Barasso	S2, S9/P48, A14	We question and oppose the Airport project that is underway without adequate public consultation, and without proper and sufficient clarification about what the project is, what it entails, etc.	S2/P7, S9/P48, A14	As stated in the draft Environmental Assessment, the project will consist of the following actions in the approach surfaces: Runway 5 Approach Surface Clearing 2.56 acres of trees; Trimming 1.76 acres of trees; Removal of two obstruction light structures; and Lowering the top elevation of three silos. Runway 23 Approach Surface

					Clearing 13.58 acres of trees; and Trimming 10.61 acres of trees. Public involvement for the proposed project is detailed in Section 9. The first component consists of coordinating the project directly with the property owners whose property will be directly impacted by the action. The Airport Authority, through its' consultants on the project, has had ongoing direct contact with these property owners to discuss the project and allow the property owners to express concerns relating to the action, including project scoping and affected project areas, and modifications in some circumstances, in conjunction with a Light Detection and Ranging (LIDAR) survey completed in 2017. LIDAR Is a remote sensing system that can be used to measure vegetation height. A public notice was published in The Inter-Mountain newspaper on January 24, 2020 and January 31, 2020 notifying the public that the EA document was available for public review at the office of Chapman Technical Group, the Elkins-Randolph County Public Library and the Elkins-Randolph County Regional Airport as well as a public meeting scheduled for February 12, 2020 in the Randolph County Commission Chambers at the James F. Cain Annex. Points of contact for comments and further information were Melissa Defibaugh, Chapman Technical Group and the Airport Manager, Elkins-Randolph Co. Regional Airport. A copy of the Public Notice is included in Appendix 14 as well as the publication certification provided to by The Inter-Mountain newspaper.
8	J & S Barasso	S9/P48, A14	Was not aware of the project, draft EA and public meeting. Asked why there is no project transparency	S9/P48, A14	A public notice was published in The Inter-Mountain newspaper on January 24, 2020 and January 31, 2020 notifying the public that the EA document was available for public review at the office of Chapman Technical Group, the Elkins-Randolph County Public Library and the Elkins-Randolph County Regional Airport as well as a public meeting scheduled for February 12, 2020 in the Randolph County Commission Chambers at the James F. Cain Annex.

					A copy of the public notice, published in The Inter-Mountain newspaper (included in Appendix 14) was mailed to the address on record for each individual property owner directly affected.
9	J & S Barasso		Why are property owners being threatened with the use of eminent domain?		The Airport Authority, through its consultant on the project, has had ongoing direct contact with the property owners to discuss access to the affected properties for surveys and evaluations required to fulfill the requirements for the EA. The Petition for Declaratory and Injunctive Relief (Civil Action No. 19-C-89) submitted to the Circuit Court of Randolph County, West Virginia in August 2019 to obtain access on certain parcels for the purpose of performing a plant survey stated in item 12 that the Airport Authority is statutorily vested with the power of eminent domain.
10	J & S Barasso		In what way does the project benefit the local community?		The National Plan of Integrated Airport Systems (NPIAS) for 2019-2023 submitted to Congress in accordance with title 49 USC Section 47103 indicates that "The plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service." The Elkins-Randolph County-Jennings Randolph Field is included in the NPIAS along with 22 other airports in the State of West Virginia. The NPIAS report is included in Appendix 14 as Attachment 3. The Elkins-Randolph County Regional Airport Master Plan in Chapter 8 (included in Appendix 14 as Attachment 5) indicates that airport activity is largely a function of economic activity. It is the responsibility of the airport to be able to accommodate business jet traffic as the opportunities arise.
11	J & S Barasso		Who is truly benefitting from this project? Have resourceful people lobbied for this project?	S1/P6	Evaluating the runway environment from an operational standpoint, Runway 5-23 is not in compliance with current FAA design criteria contained in Advisory Circular 150/5300-

					13A pertaining to an approach surface free of obstacles. The completion of the project will bring the airport into compliance with current FAA design standards. Bringing the airport into compliance increases both the safety of the flying public as well as those on the ground within the approach surfaces being maintained.
12	J & S Barasso	S(6)(i)(1)	What compensation will affected property owners receive?	S(6)(i)(1)/P24	Should the project proceed-Advisory Circular 150/5100-17 3.2.1 states – Basic Negotiation Procedures – The sponsor must make all reasonable efforts to contact the owner or the owner's representative and discuss its offer, including the basis for the offer of just compensation and explain its easement acquisition policies and procedures. The owner must be given reasonable opportunity to consider the offer and present material that the owner believes is relevant in determining the property value, and to suggest modification of the proposed purchase terms and conditions. In addition to Advisory Circular 150/5300-13A. The Airport must comply with Uniform Relocation Assistance and Real Property Acquisition Policies Act (the Uniform Act) for the proposed easement acquisitions and impacts to the dairy farm silos. The Uniform Act and FAA AC 150/5100-17 has been included in the EA in Appendix 14 as Attachment 4.
13	J & S Barasso	S1/P5/T1.2/A1	Why and for what reason is misleading, clearly fake information being given to the public (8506 total operations in 2019)?	S1/P5/T1.2/A1	The General Aviation Activity Forecasts, included as Appendix 1, (Chapter 3 of the previously prepared Elkins-Randolph County Regional Airport Master Plan), states that the Airport Master Record, FAA's Form 5010, contains a record of activity levels at the airport. The FAA Form 5010 contains aeronautical data describing the physical and operational characteristics of civil public-use airports as well as joint-use military airports and private-use military airports that are active and in the National Airspace System. The form is a computer report containing date that is stored in and derived from the National Airspace System Resources database. The operations indicated on the current FAA Form 5010 are 10,500. The 8,506 total operations included in Table 1.2 are less than the 10,500 indicated on the current FAA Form 5010. Chapter 3 indicates that there are "inherent shortcomings" with the

					records and reports maintained by small airport operators. The airport maintains a written log of aircraft operations during office hours, typically, only recording operations for which the airport can document a tail number associated with the operation. Because the airport is recording operations during office hours only, operations not accounted for in the 8,506 operations are those occurring at night and on the weekend. The FAA form 5010 is included in Appendix 14 as Attachment 2.
14	J & S Barasso		In an impact study, what is meant by impact and who are the relevant impacted parties?	S6	The purpose of the EA is to consider the environmental impacts when deciding whether or not to proceed with a project, and, if a decision is made to proceed with the project, how to proceed with the project in an environmentally responsible manner. Environmental Consequences are evaluated in Section 6 including Air Quality; Biological Resources; Climate; Coastal Resources; Section 4(f) resources; Farmlands; Hazardous Materials, Solid Waste, and Pollution Prevention; Historic Architectural, Archeological, and Cultural Resources; Land Use; Natural Resources and Energy Supply; Noise and Noise-Compatible Land Use; Socioeconomics, Environmental Justice, and Children's Environmental Health and Safety Risks; Visual Effects Including Light Emissions; Water Resources; Cumulative Impacts.
15	J & S Barasso		Jet airplanes will be flying at low altitude overhead. With tree and silos removed noise will be a nuisance	S3/P9	The proposed project is to maintain existing runway length and approach surfaces and improve safety in the air and on the ground. No changes in flight approaches or aircraft utilizing the airport will occur. Largely, the obstruction removal is required to restore night operations and reinstate prior conditions for the airport.
16	J & S Barasso		Additional noise will impact the Elderly Care Home facility on Arnold Hill Road that we operate	S6(A)(1)/P17	Day-to-day operations will not be appreciably different and the frequency of aircraft takeoffs and landings is not anticipated to change with or without the project. No changes in flight approaches or aircraft utilizing the airport will occur. Largely, the obstruction removal is required to restore night operations and reinstate prior conditions for the airport.

17	Joseph Kisner		Data in the document does not support the airports plans		The purpose of the overall project is to bring the airport into compliance with current FAA design criteria contained in Advisory Circular 150/5300-13A (effective 9/28/2012) pertaining to an approach surface free of obstacles. The tree obstructions included as part of the proposed project are identified in the Elkins-Randolph County Regional Airport's Master Plan as such.
18	Joseph Kisner	S6(N)(3)(a)(b)/P 42&43	Concerned over runoff from heavy rains and the potential for hillside slipping when trees are removed	S6(N)(3)(a)(b)/P 42&43	In order to minimize the creation of erodible surfaces, the proposed project action will include removing stumps through a stump grinding process instead of through a traditional grubbing operation with dozers or graders. This method will limit the amount of disturbance to existing ground cover to the level of disturbance associated with the movement of equipment across the ground surface. Best management practices developed by the West Virginia Division of Forestry and the West Virginia Department of Environmental Protection will be adhered to address the creation and transportation of sediment. The West Virginia Department of Environmental Protection has advised the Airport Authority, through its' consultant, that a National Pollutant Discharge Elimination System (NPDES) permit will not be required for the proposed project because the proposed action does not include any grubbing. While the total project area is approximately 28 acres, the entire footprint of the project will not be disturbed. The tree trimming and clearing operations will be performed on a per tree basis and the tree clearing operations will include grinding activities in lieu of traditional clearing and grubbing activities. Should individual parcel owners choose, trees may be felled and remain on their parcels to alleviate concerns with erosion.
19	Joseph Kisner		Stated that there have been no problems in the past and that the airport has removed lights that used to be there	S1/P6	Evaluating the runway environment from an operational standpoint, Runway 5-23 is not in compliance with current FAA design criteria contained in Advisory Circular 150/5300-

					13A (effective 9/28/2012) pertaining to an approach surface free of obstacles.
20	Linda Little		Data in the document does not support the airports plans		The purpose of the overall project is to bring the airport into compliance with current FAA design criteria contained in Advisory Circular 150/5300-13A (effective 9/28/2012) pertaining to an approach surface free of obstacles. The tree obstructions included as part of the proposed project are identified in the Elkins-Randolph County Regional Airport's Master Plan as such.
21	Linda Little		Data is from 2003-2011 with no current data	S1/P5/T1.2	Table 1.2 indicates that the actual 2019 operations recorded at the Elkins-Randolph County Regional Airport are 8,506.
22	Linda Little	S2/P8	Clearcutting and/or trimming trees will kill the trees and devalue the property.	S2/P8	The EA states that the Contractor will be required to provide an International Society of Arboriculture (ISA) Certified Arborist on-site during all tree trimming operations. Negotiations with affected property owners will be ongoing during the design and implementation stages of the Proposed Action.
23	Linda Little	S1/P6	Air traffic at the airport has been declining over the past several years and does not support the need for this project	S1/P6	Evaluating the runway environment from an operational standpoint, Runway 5-23 is not in compliance with current FAA design criteria contained in Advisory Circular 150/5300-13A pertaining to an approach surface free of obstacles.
24	Marion Harless	S9/P48, A14	Saw the public notice in The Elkins InterMountain and mentioned it to others who were not aware of the project. Does not have access to a computer or the library and could not read and analyze the 500+ pages in a couple of days. Is opposed to the project	S9/P48, A14	A public notice was published in The Inter-Mountain newspaper on January 24, 2020 and January 31, 2020 notifying the public that the EA document was available for public review at the office of Chapman Technical Group, the Elkins-Randolph County Public Library and the Elkins-Randolph County Regional Airport as well as a public meeting scheduled for February 12, 2020 in the Randolph County Commission Chambers at the James F. Cain Annex. Points of contact for comments and further information were Melissa Defibaugh, Chapman Technical Group and the Airport Manager, Elkins-Randolph Co. Regional Airport. A copy of the Public Notice is included in Appendix 14 as well as the publication certification provided to by The Inter-Mountain newspaper. A copy of the public notice published in The Inter-Mountain newspaper (included in Appendix 14) was mailed to the

					address on record for each individual property owner directly affected.
25	Marion Harless	Si/P6	Why do runways need further clearance for approaches? Several rumors abound: Rich doctors want light so they can fly at night, increased night helicopter flights from Camp Dawson taking off and landing,	S1/P6	Evaluating the runway environment from an operational standpoint, Runway 5-23 is not in compliance with current FAA design criteria contained in Advisory Circular 150/5300-13A pertaining to an approach surface free of obstacles.
26	Marion Harless		Low flying military jet flights would be flown over the region at low altitudes	S1/P6/A4	The instrument approach procedures for the Elkins-Randolph County Regional Airport are included in Appendix 4 of the EA document for both Runway 5 and Runway 23. Largely, the obstruction removal is required to restore night operations and reinstate prior conditions for the airport. Maintaining current operations and maintaining approaches in accordance with Advisory Circular 150/5300-13A will not change the class of aircraft currently utilizing the airport.
27	Marion Harless		This obstruction project has been known for years, where are the newspaper articles.		The Airport Authority conducts monthly meetings posted in accordance with applicable laws that are open to the public.
28	Marion Harless	S6	How will nearby homes, businesses, high schools be affected?	S2/P7, S6(i)(1)/P24, S9/P48, S6(M)(2)/P28-40, A14	The project will consist of the following actions in the approach surfaces: Runway 5 Approach Surface Clearing 2.56 acres of trees; Trimming 1.76 acres of trees; Removal of two obstruction light structures; and Lowering the top elevation of three silos. Runway 23 Approach Surface Clearing 13.58 acres of trees; and Trimming 10.61 acres of trees. Public involvement for the proposed project is detailed in Section 9. The first component consists of coordinating the project directly with the property owners whose property will be directly impacted by the action. The Airport Authority, through its' consultants on the project, has had ongoing direct contact with these property owners to discuss the project and allow the property owners to express concerns relating to the action, including project scoping and revising the affected project area in conjunction with a Light Detection and Ranging (LIDAR) survey completed in 2017.

					The main impacts associated with the Proposed Action will be changes to the viewshed associated with tree trimming and clearing. An active dairy farm will also be impacted by reducing the height of three (3) silos. The farm will be will be compensated by following the provisions of FAA Advisory Circular 150/5100-17 *Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects* and the Uniform Relocation Assistance and Real Property Acquisition Policies Act (the Uniform Act) for impacts to the silos The Uniform Act will also be followed for easement acquisitions. There will be no impacts to schools in the area.
29	Marion Harless	S6(N)(3)/P42 & 43	How will the watershed be affected?	S6(N)(3)/P42 & 43	The boundaries of the immediate watersheds will largely not be affected by the proposed action as the topography of the areas will not be altered, and the watersheds already contain developed/maintained properties. The tree trimming portion of the project will only slightly modify the existing tree leaf cover, and, as such, effects to the watershed will be minimal. The tree clearing portion of the project is spread across five separate areas, with the largest project area being approximately 6 acres (Area No. 4). This area's immediate watershed basin will largely be split in half, resulting in approximately 3 acres of lost tree leaf cover impacting each watershed basin. Effects to the watershed will again not be significant. In order to minimize the creation of erodible surfaces, thus effects to the watershed, the proposed project action will include removing stumps through a stump grinding process instead of through a traditional grubbing operation with dozers or graders. This method will limit the amount of disturbance to existing ground cover to the level of disturbance associated with the movement of equipment across the ground surface. Best management practices developed by the West Virginia Division of Forestry and the West Virginia Department of Environmental Protection will be adhered to address the creation and transportation of sediment. The West Virginia Department of Environmental Protection has advised the Airport Authority, through its' consultant,

					that a National Pollutant Discharge Elimination System (NPDES) permit will not be required for the proposed project because the proposed action does not include any grubbing. While the total project area is approximately 28 acres, the entire footprint of the project will not be disturbed. The tree trimming and clearing operations will be performed on a per tree basis and the tree clearing operations will include grinding activities in lieu of traditional clearing and grubbing activities.
30	Marion Harless		Trees absorb pollutant, disperse precipitation and allow water to permeate the soil, preventing runoff and curtailing flooding.	S6 A(3)/P17 S6 B(4)/P19 S6 N(2)/P42	Within a one-mile radius of the proposed project areas, there are in excess of 1,000 acres of wooded area. Based on the amount of wooded area remaining, pollutant absorption should be impacted minimally. Additionally, Randolph County is not listed as a nonattainment or maintenance area for the National Ambient Air Quality Standards (NAAQS) established under the Clean Air Act. In order to minimize the creation of erodible surfaces, the proposed project actions will include removing stumps through a stump grinding process instead of through a traditional grubbing operation with dozers or graders. This method will limit the amount of disturbance to existing ground cover to the level of disturbance associated with the movement of equipment across the ground surface. Best management practices developed by the West Virginia Division of Forestry and the West Virginia Department of Environmental Protection will be adhered to address the creation and transportation of sediment. While the total project area is approximately 28 acres, the entire footprint of the project will not be disturbed. The tree trimming and clearing operations will be performed on a per tree basis and the tree clearing operations will include grinding activities in lieu of traditional clearing and grubbing activities. Should individual parcel owners choose, trees may be felled and remain on their parcels to alleviate concerns with erosion.

					Additionally, the proposed action consists of removing tree and structure obstructions which are generally located on hilltops which are situated well above the 100-year floodplain. The proposed project consists of removing obstructions and does not contain any components which would introduce new material into the floodplain.
31	Marion Harless		Please share my comments with the Elkins City Council, Randolph County Commission and the Elkins-Randolph County Airport Authority.		Comments will be transmitted to the Randolph County Commission and the City of Elkins via the Airport Authority's consultant. The Elkins-Randolph County Regional Airport Authority will be copied on those transmittals. Proof of submittal is included in Appendix 14, Attachment 6.
32	Milford Jones	S9/P48, A14	Does not have access to a computer and is in opposition to the project	S9/P48, A14	The public comment period began on January 24, 2020 and ended on February 23, 2020. A paper copy of the document was available, as stated in the advertisement, at the Elkins-Randolph County Public Library, the Elkins-Randolph County Regional Airport and Chapman Technical Group. Points of contact for comments and further information were Melissa Defibaugh, Chapman Technical Group and the Airport Manager, Elkins-Randolph Co. Regional Airport. A copy of the Public Notice is included in Appendix 14 as well as the publication certification provided to by The Inter-Mountain newspaper.
33	Milford Jones	S1/P5/T1.2/A1	The use numbers enumerated by Chapman are not true reality	S1/P5/T1.2/A1	The General Aviation Activity Forecasts, included as Appendix 1, (Chapter 3 of the previously prepared Elkins-Randolph County Regional Airport Master Plan), states that the Airport Master Record, FAA's Form 5010, contains a record of activity levels at the airport. The FAA Form 5010 contains aeronautical data describing the physical and operational characteristics of civil public-use airports as well as joint-use military airports and private-use military airports that are active and in the National Airspace System. The form is a computer report containing date that is stored in and derived from the National Airspace System Resources database. The operations indicated on the current FAA Form 5010 are 10,500. The 8,506 total operations included in Table 1.2 are less than the 10,500 indicated on the current FAA Form 5010. Chapter 3 indicates that there are "inherent shortcomings" with the records and reports

					maintained by small airport operators. The airport maintains a written log of aircraft operations during office hours, typically, only recording operations for which the airport can document a tail number associated with the operation. Because the airport is recording operations during office hours only, operations not accounted for in the 8,506 operations are those occurring at night and on the weekend. The FAA form 5010 is included in Appendix 14 as Attachment 2.
34	Milford Jones		The absolute destruction of the private property and the use of that property in perpetuity is not worth the negative impact of any value of the project. It does not increase the potential for use. Higher standards for approach zones brings no changed positive value.		Evaluating the runway environment from an operational standpoint, Runway 5-23 is not in compliance with current FAA design criteria contained in Advisory Circular 150/5300-13A pertaining to an approach surface free of obstacles. The National Plan of Integrated Airport Systems (NPIAS) for 2019-2023 submitted to Congress in accordance with title 49 USC Section 47103 indicates that "The plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service." The Elkins-Randolph County-Jennings Randolph Field is included in the NPIAS along with 22 other airports in the State of West Virginia. The Elkins-Randolph County Regional Airport Master Plan in Chapter 8 (included in Appendix 14 as Attachment 5) indicates that airport activity is largely a function of economic activity. It is the responsibility of the airport to be able to accommodate business jet traffic as the opportunities arise The NPIAS report is included in Appendix 14 as Attachment 3.
35	Milford Jones	S(6)(i)(1)/P24, S6(L)(2)/P26	The proposal to buy storage capacity for 3 silos height reduction is a microbiological and physically stupid assumption that this silo use can be approximated in actuality.	S(6)(i)(1)/P24	The purpose of the EA is to consider the environmental impacts when deciding whether or not to proceed with a project, and, if a decision is made to proceed with the

			Height is a factor of mass-weight of contents. Ability to pack contents & reduce air contact with contents affect the ability to transform the acid transforming preservation capabilities of the contents (fermentation). Reducing height significantly reduces capability to adequately ferment contents to produce nutrient-dense feed for ruminant livestock. There is no equivalent to height for gravity compaction. Height reduction of the 3 silos cannot in actuality be purchased. The silo's owners income can be substantially altered by lowering these silo's in perpetuity		project, how to proceed with the project in an environmentally responsible manner. The EA is only a part of the project process. Should the project proceed-Advisory Circular 150/5100-17 *Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects* 3.2.1 states – Basic Negotiation Procedures – The sponsor must make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses. The owner must be given reasonable opportunity to consider the offer and present material that the owner believes is relevant in determining the property value, and to suggest modification of the proposed purchase terms and conditions. In addition to Advisory Circular 150/5100-17, the Airport must comply with Uniform Relocation Assistance and Real Property Acquisition Policies Act (the Uniform Act) for the proposed easement acquisitions and impacts to the dairy farm silos. The Uniform Act and FAA AC 150/5100-17 has been included in the EA in Appendix 14 as Attachment 4.
36	Milford Jones	S9/P48, A14	There was a lack of sufficient copies of the draft document for public review. Informed by Chapman Technical that there are only 2 copies available, one at the airport and one at the Elkins library, with no other alternative sites. This is just not satisfactory. Large parts of Randolph County are not within reasonable commuting distance of Elkins and there should be copies at other county libraries. For the cost of the environmental document, having approximately 10 more copies for the public in proportion to what is required for bureaucratic agencies and their staff, make more copies for the County- even now. It appears the Airport Authority, in not making the copies available to the public were trying to keep the project and the County Commissioner quiet.	S9/P48, A14	The public comment began on January 24, 2020 and ended on February 23, 2020, 30 days after publication. A paper copy of the document was available, as stated in the advertisement, at the Elkins-Randolph County Public Library, the Elkins-Randolph County Regional Airport and Chapman Technical Group. Points of contact for comments and further information were Melissa Defibaugh, Chapman Technical Group and the Airport Manager, Elkins-Randolph Co. Regional Airport. A copy of the Public Notice is included in Appendix 14 as well as the publication certification provided to by The Inter-Mountain newspaper. The affected parcels are in the approach surfaces to Runway 5 and Runway 23. Generally, within 12,000 feet (2.3 miles) of the airport. By vehicle, the distance from the Elkins-

					Randolph County Regional Airport to the Elkins-Randolph County Public Library is approximately 4 miles.
37	Milford Jones	6(M)	Clearing vertically extended vegetation will be removing environmentally aesthetically pleasing trees which create an intimate environment and view-scape for at least two local businesses (Elderly Care Home & campground facilities. Don't take these trees down or reduce their height	A5	The businesses cited will not have trees trimmed or cleared on their individual parcels. Obstruction removal will not take place at, or near, the Elderly Care Facility. The closest obstruction removal area is Area No. 9 which is approximately 0.25 miles north of the facility. Trees located at the campground facility will not be impacted and will shield the campground from tree removal Area No. 6.
38	Milford Jones		I am requesting that you put the proposed project on pause until you provide the interested public an opportunity to review the environmental document at locations other than Elkins, WV	S9/P48, A14	The public comment began on January 24, 2020 and ended on February 23, 2020, 30 days after publication. An electronic version of the EA document was available online for review during the same period at http://elkinsairport.com.
39	Mina Cupp		Trees need to be planted to correct and prevent erosion, provide shade, protect from wind and support migratory birds	S8/P47 S8/P48	Trees or shrubs may be re-planted at the parcel owner's discretion once Phase III is complete. However, the trees or shrubs may not penetrate the approach surfaces to Runway 5 or Runway 23.
40	Mina Cupp		We opposed the tree removal. Too many would be affected for the recreation of a few		The National Plan of Integrated Airport Systems (NPIAS) for 2019-2023 submitted to Congress in accordance with title 49 USC Section 47103 indicates that "The plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service." The Elkins-Randolph County-Jennings Randolph Field is included in the NPIAS along with 22 other airports in the State of West Virginia. The NPIAS report is included in Appendix 14 as Attachment 3. The Elkins-Randolph County Regional Airport Master Plan in Chapter 8 (included in Appendix 14 as Attachment 5) indicates that airport activity is largely a function of economic activity. It is the responsibility of the airport to be

					able to accommodate business jet traffic as the opportunities arise.
41	Mina Cupp	S(6)(i)(1)/P24, S6(L)(2)/P26	Replacement of the existing silo structures will not work. It takes over 120 days for one crop of corn for a silo. That is one crop per season (May thru October)	S(6)(i)(1)/P24	The purpose of the EA is to consider the environmental impacts when deciding whether or not to proceed with a project, and, if a decision is made to proceed with the project, how to proceed with the project in an environmentally responsible manner. The EA is only a part of the project process. Should the project proceed-Advisory Circular 150/5100-17 *Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects* 3.2.1 states – Basic Negotiation Procedures – The sponsor must make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses. The owner must be given reasonable opportunity to consider the offer and present material that the owner believes is relevant in determining the property value, and to suggest modification of the proposed purchase terms and conditions. In addition to Advisory Circular 150/5100-17, the Airport must comply with Uniform Relocation Assistance and Real Property Acquisition Policies Act (the Uniform Act) for the proposed easement acquisitions and impacts to the dairy farm silos. The Uniform Act and FAA AC 150/5100-17 has been included in the EA in Appendix 14 as Attachment 4.
42	Mark & Bonnie Branciaroli	S9/P48, A14	The public was not given enough notice concerning the date of the public hearing. The notice was run in the local paper on Monday, February 10 for a hearing to be held on Wednesday, February 12, giving the public two days to read and evaluate a 569 page report	S9/P48, A14	A public notice was published in The Inter-Mountain newspaper on January 24, 2020 and January 31, 2020 notifying the public that the EA document was available for public review at the office of Chapman Technical Group, the Elkins-Randolph County Public Library and the Elkins-Randolph County Regional Airport as well as a public meeting scheduled for February 12, 2020 in the Randolph County Commission Chambers at the James F. Cain Annex. Points of contact for comments and further information were Melissa Defibaugh, Chapman Technical Group and the Airport Manager, Elkins-Randolph Co. Regional Airport. A

					copy of the Public Notice is included in Appendix 14 as well as the publication certification provided to by The Inter-Mountain newspaper. A copy of the public notice published in The Inter-Mountain newspaper (included in Appendix 14) was mailed to the address on record for each individual property owner directly affected.
43	Mark & Bonnie Branciaroli		Public Hearing Commissioner Mark Scott indicated that the obstructions to the runways have been a consistent problem for pilots attempting to make a precision IFR approach in the evenings. Elkins-Randolph County Airport does not have a designated precision IFR approach currently and very few flights use Runway 5 in the evenings even during VFR conditions. Commissioner Scott should have been more forthcoming in the plans for the airport and how those plans integrate with what is happening in our landscape. What is happening now is only Phase I of three Phases to create and IFR precision approach in 2023. Both commissioners at the Public Hearing knew very little about the project or the Airport in general	S6(O)/P45-47	The future projects listed in the EA relative to the obstruction removal are delineated as follows: 2020 – Obstruction Removal (Runway 5-23 Approaches) (Phase II – Easement Acquisition) 2021 – Obstruction Removal (Runway 5-23 Approaches) (Phase II – Easement Acquisition/Design) 2022 - Obstruction Removal (Runway 5-23 Approaches) (Phase III – Construction) Additional projects not related to the obstruction removal are included through 2025. Largely, the obstruction removal is required to restore night operations and reinstate prior conditions for the airport. The proposed project will not “create” a new airport approach, rather reinstate prior conditions at the airport.
44	Mark & Bonnie Branciaroli	S9/P48	We were not notified by the Airport or Chapman Technical Group either by letter, phone or email, even though our property is listed as impacted property in the environmental document	S9/P48	Public involvement for the proposed project is detailed in Section 9. The first component consists of coordinating the project directly with the property owners whose property will be directly impacted by the action. The Airport Authority, through its’ consultant on the project, has had ongoing direct contact with these property owners to discuss the project and allow the property owners to express concerns relating to the action, including project scoping and affected project areas in conjunction with a Light Detection and Ranging (LIDAR) survey completed in 2017. While the Branciaroli’s appears to be located in the project area based on the map included in your letter as Attachment D, this map is from a cultural resources report that was initiated prior to refining the project area through a subsequent LIDAR Survey which eliminated the property

					from the directly impacted project area. Text associated with this LIDAR data is included on page 23 of the draft EA.
45	Mark & Bonnie Branciaroli	A5/A8	We did not see the letter to all affected property owners around June 20, 2019 regarding the plant survey on their properties. The first time we had seen the Chapman letter asking for survey permission was three days before the public hearing. We were not listed with the 12 other property owners who had not sent their approval sheets to have their land surveyed	A5/A8,	Appendix 5 depicts Area No. 6 (0.82 acre trimming). While the area is in the vicinity of the Branciaroli parcel, the tree trimming is confined to Airport Authority property. Public involvement for the proposed project is detailed in Section 9. The first component consists of coordinating the project directly with the property owners whose property will be directly impacted by the action. The Airport Authority, through its' consultant on the project, has had ongoing direct contact with these property owners to discuss the project and allow the property owners to express concerns relating to the action, including project scoping and affected project areas in conjunction with a Light Detection and Ranging (LIDAR) survey completed in 2017. While the Branciaroli property appears to be located in the Project Area based on the map included in your letter as Attachment D, this map is from a cultural resources report included in Appendix 8 of the draft EA. The cultural resources survey was initiated prior to refining the project area through a subsequent Light Detection and Ranging (LIDAR) survey. This survey eliminated your property from the directly impacted project area. Appendix 8 also includes renewed consultation with the West Virginia State Historic Preservation Office stating the changes in the project footprint. Text associated with this LIDAR Survey is included on page 23 of the draft EA.
46	Mark & Bonnie Branciaroli		We are requesting copies of transcripts of all hearings and meetings from the Airport Authority Secretary concerning the proposed project briefly outlined in the Short Environmental Assessment Form, Obstruction Removal AIP Project No. 3-54-0007-023-2016 and a review draft, from its inception (before a letter dated July 12, 2016 to the FAA) to the present date.		Copies of the monthly Airport Authority meeting minutes since the approval of the FAA grant for the project have been included in Appendix 14 as Attachment 7.
47	Mark & Bonnie Branciaroli		The communities and public affected should have been made more aware of the proposed AIP Project before $139,971.00 in federal funds were acquired and $19,052 of our tax monies spent to begin the Environmental Assessment.		The funding for the project is largely (90%) provided through the Airport Improvement Program (AIP) which provides grants to public agencies for the planning and development of public-use airports that are included in the

					NPIAS. AIP funds originate from the Airport and Airway Trust Fund which draws support mainly from airport user fees and aviation fuel taxes, and other revenue sources. A portion of the project funding (5%) is provided by the West Virginia Aeronautics Commission. The balance of the project funding is provided by the Elkins-Randolph County Regional Airport Authority.
48	Mark & Bonnie Branciaroli	S6(B)(1-3)/P17-19	**Endangered plants** and survey periods: *Arabis serotina* - survey period - August 1 - Sept. 30 *Plilimnium nodosum* - survey period - July 1 - Sept. 30 *Scirpus ancistrocheatus* - survey period - August 1 - Sept. 30 *Trifolium stolonilerum* - survey period - May 1 - Sept. 30 **Threatened species** and survey periods: *Isolria medeoloides* - survey period - May 1, Sept. 30 *Spirea virginiana* - survey period - June 1 - Sept. 30. Page 4 of the Petition for Declaratory and Injunctive Relief issued to twelve Randolph County property owners that the "plant surveys for the 17 consenting property owners were completed within 10 days in July 2019. The survey is NOT complete, noting that the survey date recommended by the Fish and Wildlife Service for *Arabis serotine* and *Scirpus ancistrocheatus* should have been AFTER August 1. Although the USFWS accepted the survey approval was granted without full application and adherence to the "Procedures for Conducting Surveys for Federally Threatened or Endangered Plants in West Virginia" as required by the WVDNR and USFWS. Surveying was not done at the proper time and our property was not surveyed. We saw no documentation and photos of our property in Area 6. The Plant Survey maps do not include any conclusion as to whether there were plants found on our property, or offers any map identifying that it was surveyed. We cannot and will not accept the finding due to error on the part of the Airport Authority and Chapman Group for not contacting us. Plant surveys need to be conducted accurately, including our property	S6(B)(1-3)/P17-19/A7&A8	Consultation with the USFWS resulted in a determination that plant surveys were required only for the running buffalo clover (*Trifolium stolonilerum)* and small whorled pogonia (*Isolria medeoloides).* Surveys were not required for the other species identified in the comment. A survey plan following *the Procedures for Conducting Surveys for Federally Threatened or Endangered Plants in West Virginia* was developed and approved by the USFWS based on WVDNR habitat suitability models identifying higher probability of containing suitable habitat areas within the overall project footprint. The survey took place on July 16th, July 17th, and September 9th within the identified survey period for both species. Results of the survey plan were documented in the *Rare Plant Survey Report for the Elkins-Randolph County Regional Airport, West Virginia,* stating that no small whorled pogonia or running buffalo clover were found during the survey. This report was submitted to, and approved by, the USFWS with a finding that the Service does not anticipate that the project is likely to adversely affect small whorled pogonia or running buffalo clover. While the Branciaroli property appears to be located in the Project Area based on the map included in your letter as Attachment D, this map is from a cultural resources report included in Appendix 8 of the draft EA. The cultural resources survey was initiated prior to refining the project area through a subsequent LIDAAR Survey. This survey eliminated your property from the directly impacted project area. Appendix 8 also includes renewed consultation with the West Virginia State Historic Preservation Office stating the changes in the project footprint. Text associated with

					this Light Detection and Ranging (LIDAR) Survey is included on page 23 of the draft EA.
49	Mark & Bonnie Branciaroli	S6(B)(1-3)/P17-19	We do have bats here and would like a bat survey to determine if the three bats concerned may be found on our property	S6(B)(1-3)/P17-19/A7& A8	A mist net survey plan using the *2018 Range-wide Indiana Bat Survey Guidelines* was developed and approved by the USFWS based on the overall project footprint. A mist net survey was conducted within the five approved sites within the plan for three nights each resulting in no capture of endangered or threatened species. The survey was submitted to, and approved by, the USFWS with a finding that no federally listed species are expected to be adversely affected by the project and any take of the NLEB associated with this project is exempt under the 4(d) rule. While the Branciaroli property appears to be located in the Project Area based on the map included in your letter as Attachment D, this map is from a cultural resources report included in Appendix 8 of the draft EA. The cultural resources survey was initiated prior to refining the project area through a subsequent Light Detection and Ranging (LIDAR) Survey. This survey eliminated your property from the directly impacted project area. Appendix 8 also includes renewed consultation with the West Virginia State Historic Preservation Office stating the changes in the project footprint. Text associated with this LIDAR Survey is included on page 23 of the draft EA.
50	Mark & Bonnie Branciaroli	S1/P5/T1.2/A1	Elkins Airport has always been underutilized. We are skeptical concerning the data of 8,506 total operations for 2019. We would like to see how that number was derived. Combined TRACON and tower with Radar report notes 7.096 General Aviation operations in 2019. More improved data on 2019 operations need to be added	S1/P5/T1.2/A1	The General Aviation Activity Forecasts, included as Appendix 1, (Chapter 3 of the previously prepared Elkins-Randolph County Regional Airport Master Plan), states that the Airport Master Record, FAA's Form 5010, contains a record of activity levels at the airport. The FAA Form 5010 contains aeronautical data describing the physical and operational characteristics of civil public-use airports as well as joint-use military airports and private-use military airports that are active and in the National Airspace System. The form is a computer report containing date that is stored in and derived from the National Airspace System Resources database. The operations indicated on the current FAA Form 5010 are 10,500. The 8,506 total operations included in Table 1.2 are less than the 10,500 indicated on the

					current FAA Form 5010. Chapter 3 indicates that there are "inherent shortcomings" with the records and reports maintained by small airport operators. The airport maintains a written log of aircraft operations during office hours, typically, only recording operations for which the airport can document a tail number associated with the operation. Because the airport is recording operations during office hours only, operations not accounted for in the 8,506 operations are those occurring at night and on the weekend. The FAA form 5010 is included in Appendix 14 as Attachment 2.
51	Mark & Bonnie Branciaroli		We also request a projection report to determine how the Obstruction Removal project and the addition of a Precision IFR runway will boost the local economy. The public hearing noted that life-flight helicopters need IFR Precision night approach; however, FAA Advisory Circular 90-66B notes that non-towered airport flight operations may land at a lower altitude than fixed wing aircraft		The National Plan of Integrated Airport Systems (NPIAS) for 2019-2023 submitted to Congress in accordance with title 49 USC Section 47103 indicates that "The plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service." The Elkins-Randolph County-Jennings Randolph Field is included in the NPIAS along with 22 other airports in the State of West Virginia. The NPIAS report is included in Appendix 14 as Attachment 3. Largely, the obstruction removal is required to restore night operations and reinstate prior conditions for the airport. The proposed project will not "create" a new airport approach, rather reinstate prior conditions at the airport.
52	Mark & Bonnie Branciaroli	S6(N)(3)/P42 & 43	The EA does not address how future water runoff from heavy rains will affect property owners due to steep hillsides and lack of trees. We are requesting an erosion assessment be added to the EA	S6(N)(3)/P42 & 43	In order to minimize the creation of erodible surfaces, the Proposed Action will include removing stumps through a stump grinding process instead of through a traditional grubbing operation with dozers or graders. This method will limit the amount of disturbance to existing ground cover to the level of disturbance associated with the movement of equipment across the ground surface. The Contractor

					performing the tree removal will be required to adhere to the best management practices developed by the West Virginia Division of Forestry and the West Virginia Department of Environmental Protection to address the creation and transportation of sediment. These measures include the installation of sediment control devices to provide a structural control to prevent excessive sediment creation or transportation. In order to minimize increases in surface water runoff, the existing leaf litter ground cover will be left in place to the maximum extent possible. The leaf litter ground cover will help reduce the surface water runoff rate and will help promote surface water infiltration as opposed to surface water runoff. The Proposed Action will also include seeding all obstruction removal areas to establish an adequate stand of grass cover to help stabilize the surface soils. Grass ground cover also assists in the reduction of the surface runoff rate by creating openings in the soil surface to promote water infiltration. Trees may be felled and left in place to minimize erosion on slopes at the discretion of individual landowners.
53	Mark & Bonnie Branciaroli		The Airport authorized a potential AIP funded project in 2009-2010 for the west side of Runway 5-23 that resulted in log jams on Chenoweth Creek that flooded our campground that is located outside of the floodplain resulting in lost business and thousands of dollars to restore it back to its original look. We request the FAA to inspect the area and the Elkins-Randolph County Airport Authority to clean up the residual timber and branches. The FAA and Airport Authority need to put more wording in the EA regarding the responsibility of the Elkins-Randolph County Airport to factor in clean-up due to water runoff damage	S6(N)(3)/P42 & 43	In order to minimize the creation of erodible surfaces, the proposed project actions will include removing stumps through a stump grinding process instead of through a traditional grubbing operation with dozers or graders. This method will limit the amount of disturbance to existing ground cover to the level of disturbance associated with the movement of equipment across the ground surface. Best management practices developed by the West Virginia Division of Forestry and the West Virginia Department of Environmental Protection will be adhered to address the creation and transportation of sediment. The West Virginia Department of Environmental Protection has advised the Airport Authority, through its' consultant, that a National Pollutant Discharge Elimination System (NPDES) permit will not be required for the proposed project because the proposed actions do not include any grubbing.

					While the total project area is approximately 28 acres, the entire footprint of the project will not be disturbed. The tree trimming and clearing operations will be performed on a per tree basis and the tree clearing operations will include grinding activities in lieu of traditional clearing and grubbing activities. Should individual parcel owners choose, trees may be felled and remain on their parcels to alleviate concerns with erosion. By letter dated August 12, 2010 Mr. Mark Branciaroli, 480 Arnold Hill Road, Elkins, WV 26241 with subject: Cutting of trees and other issues regarding the Pegasus Farm Campground entrance and the Randolph County Airport, indicated that the Randolph County Airport Authority had "addressed all the issues, in a timely manner, we were concerned about."
54	Mark & Bonnie Branciaroli	S1/P4	Property owners must be made aware of and understand that the acquisition of or taking of avigation easement means the land no longer belongs to the property owner, but to the government (City of Elkins and Elkins-Randolph County Airport	S6(F)/P22	The purpose of the EA is to consider the environmental impacts when deciding whether or not to proceed with a project, and, if a decision is made to proceed with the project, how to proceed with the project in an environmentally responsible manner. The EA is only a part of the project process. The proposed avigation easements will protect against future obstructions, both vegetative and structural, but the overall use of the properties will not be altered. Ownership of the land will remain with the parcel owner. An avigation easement will give the Airport Authority a right related to the property including the right to remove any objects that penetrate the FAA airspace surfaces. Typically, avigation easements will lower property value and because of that, the parcel owner is paid just compensation in accordance with the Uniform Act and FAA AC 150/5100-17 to cover this decrease in property value at the time of purchase. The Uniform Act and FAA AC 150/5100-17 has been included in the EA in Appendix 14 as Attachment 4.
55	Mark & Bonnie Branciaroli		Property owners must be given fair notice with enough time to make knowledgeable decisions concerning their property, which to this point, they have not	S6(i)(1)/P24	The purpose of the EA is to consider the environmental impacts when deciding whether or not to proceed with a project, and, if a decision is made to proceed with the

					project, how to proceed with the project in an environmentally responsible manner. The EA is only a part of the project process. Acquisitions with regard to avigation easements will be made in accordance with the Uniform Act and FAA Advisory Circular 150/5100-17.
56	Mark & Bonnie Branciaroli	S2/P7	Property owners should be monetarily reimbursed the market value of the timber taken off their land. As the EA currently reads, the marketable timber will be the property of the contractor. This needs to be revised to include the property owner		In accordance with the Uniform Act and FAA Advisory Circular 150/5100-17, before initiating negotiations for the property, the Airport Authority must establish an amount considered as just compensation. The marketable timber will be felled and may be left in place at the discretion of parcel owners.
57	Mark & Bonnie Branciaroli	S2/P8	Property owners must be made aware that tree topping may work for short-term ease, but ten years down the road, most of those trees will have died and fallen onto their property; therefore, becoming the responsibility of the property owner to clean up. The adjacent Ward property was cleared and topped for a Runway 5 extension project in 2009. Those trees have now died which changes the ecosystem (lost shade, resting places for migratory birds, rapid growth of underbrush. Young trees can rebound, but older trees and pines will die	S2/P8	The Airport Authority, through its consultants on the project, has had ongoing direct contact with the property owners to discuss access to the affected properties for surveys and evaluations required to fulfill the requirements for the EA. The project scope was modified from its' original scope that comprised clearing of all of the project areas, to a combination of trimming and clearing the various areas at the request of the parcel owners. The EA states that the Contractor will be required to provide an ISA Certified Arborist on-site during all tree trimming operations. Negotiations with affected property owners will be ongoing during the design and implementation stages of the Proposed Action.
		S2/P8	Effects of tree trimming need to be taken into consideration when discussing options with landowners and we suggest that an environmental arborist , or several arborists, be involved with this property acquisition and tree clearing and that information be included in the EA	S2/P8	The purpose of the EA is to consider the environmental impacts when deciding whether or not to proceed with a project, and, if a decision is made to proceed with the project, how to proceed with the project in an environmentally responsible manner. The EA is only a part of the project process. The EA states that the Contractor will be required to provide an ISA Certified Arborist on-site during all tree trimming operations. Negotiations with affected property owners will be ongoing during the design and implementation stages of the Proposed Action.
58	Mark & Bonnie Branciaroli		Chapman Technical Group explained in the public hearing that one of the desired outcomes is to increase safety…on the	A5	Appendix 5 depicts Area No. 6 (0.82 acre trimming). While the area is in the vicinity of the Branciaroli parcel, the tree

			ground for everybody. The stand of trees on my property provide a buffer between our home and campers from the adjacent Cupptane Bulk Propane facility. Either topped or cut, we will be requesting from the FAA and the Airport Authority compensation to build or construction of a twelve to fifteen-foot buffer fence to be built within that Area 6 zone.		trimming is confined to Airport Authority property. No tree trimming will take place on the Branciaroli property.
59	Mark & Bonnie Branciaroli		We maintain that more information needs to be forthcoming on this project. We, as impacted property owners, be notified of said project, that we have the right and the option to be surveyed, and that more public notices and hearings be scheduled before the FAA approves the Short Environmental Assessment Form, Obstruction Removal AIP Project No. 3-54-0007-023-2016 and a Review Draft	A5	Appendix 5 depicts Area No. 6 (0.82 acre trimming). While the area is in the vicinity of the Branciaroli parcel, the tree trimming is confined to Airport Authority property. No tree trimming will take place on the Branciaroli property. Public involvement for the proposed project is detailed in Section 9. The first component consists of coordinating the project directly with the property owners whose property will be directly impacted by the action. The Airport Authority, through its' consultant on the project, has had ongoing direct contact with these property owners to discuss the project and allow the property owners to express concerns relating to the action, including project scoping and affected project areas in conjunction with a Light Detection and Ranging (LIDAR) survey completed in 2017.
60	Mark & Bonnie Branciaroli		We request that the Branciarolis be added to the list of property owners for any future dissemination of information. We request to be notified so we know exactly when this project on Areas 6 and Obstruction 7 will take place	A5	Appendix 5 depicts Area No. 6 (0.82 acre trimming). While the area is in the vicinity of the Branciaroli parcel, the tree trimming is confined to Airport Authority property.
61	Mark & Bonnie Branciaroli	S(6)(i)(1)/P24	A loss of income due to this unnecessary destruction needs to be compensated	S(6)(i)(1)/P24	Evaluating the runway environment from an operational standpoint, Runway 5-23 is not in compliance with current FAA design criteria contained in Advisory Circular 150/5300-13A pertaining to an approach surface free of obstacles. In order for the airport to be in compliance with current FAA design criteria and grant assurances, the tree clearing and tree trimming in the project areas is necessary. Should the project proceed-Advisory Circular 150/5100-17 *Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects* 3.2.1 states – Basic Negotiation Procedures – The sponsor must make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the

					basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses. The owner must be given reasonable opportunity to consider the offer and present material that the owner believes is relevant in determining the property value, and to suggest modification of the proposed purchase terms and conditions. In addition to Advisory Circular 150/5100-17, the Airport must comply with Uniform Relocation Assistance and Real Property Acquisition Policies Act (the Uniform Act) for the proposed easement acquisitions and impacts to the dairy farm silos. The Uniform Act and FAA AC 150/5100-17 has been included in the EA in Appendix 14 as Attachment 4.
62	Mark & Bonnie Branciaroli	S2/P8	Airport-owned land border our lands must be cleared to the most stringent ecological and environmental standards possible and that we be assured that land owned by the Airport Authority will be cut similar to private property standards and cleaned up accordingly	S2/P8	The purpose of the EA is to consider the environmental impacts when deciding whether or not to proceed with a project, and, if a decision is made to proceed with the project, how to proceed with the project in an environmentally responsible manner. All construction work within the individual project areas will be conducted in accordance with the EA. The EA states that the Contractor will be required to provide an ISA Certified Arborist on-site during all tree trimming operations.
63	Mark & Bonnie Branciaroli		Any damage to the RV access road be fixed or compensated for and never be obstructed during our open season (April 15-Nov. 15)	S2/P8	When the project nears Phase III – Construction, coordination can be provided with the Branciaroli's. Coordination with the Contractor for the obstruction removal operations will include restoring all disturbed areas to original condition at the conclusion of the obstruction removal activities. Area No. 6, in the vicinity of the Branciaroli's, is on property currently owned by the Airport Authority, and work in this project area only includes tree trimming. Access to Area No. 6 can be accomplished by traversing property currently controlled by the Airport Authority from Arnold Hill Road.
64	Mark & Bonnie Branciaroli		We request to be visited by the proper personnel who will have knowledge as to what is to be done on our property and explain to us what will be cut and what will be trimmed	A5	Appendix 5 depicts Area No. 6 (0.82 acre trimming). While the area is in the vicinity of the Branciaroli parcel, the tree trimming is confined to Airport Authority property. No tree trimming will take place on the Branciaroli property.

65	Mark & Bonnie Branciaroli		If there be a taking of our property (as explained on page 340 of the Assessment) that we be compensated for said property, that damages be paid, and that any devaluation of our property be compensated at market value.	S(6)(i)(1)/P24, S9/P48, A5, A14	Appendix 5 depicts Area No. 6 (0.82 acre trimming). While the area is in the vicinity of the Branciaroli parcel, the tree trimming is confined to Airport Authority property. No tree trimming will take place on the Branciaroli property. Public involvement for the proposed project is detailed in Section 9. The first component consists of coordinating the project directly with the property owners whose property will be directly impacted by the action. The Airport Authority, through its' consultant on the project, has had ongoing direct contact with these property owners to discuss the project and allow the property owners to express concerns relating to the action, including project scoping and affected project areas in conjunction with a Light Detection and Ranging (LIDAR) survey completed in 2017. The project areas were altered slightly as a result of the LIDAR survey completed in 2017. The revised project areas have been re-evaluated as part of the project consultations and are included the EA. Should the project proceed-Advisory Circular 150/5100-17 *Land Acquisition and Relocation Assistance for Airport Improvement Program Assisted Projects* 3.2.1 states – Basic Negotiation Procedures – The sponsor must make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses. The owner must be given reasonable opportunity to consider the offer and present material that the owner believes is relevant in determining the property value, and to suggest modification of the proposed purchase terms and conditions. In addition to Advisory Circular 150/5100-17, the Airport must comply with Uniform Relocation Assistance and Real Property Acquisition Policies Act (the Uniform Act) for the proposed easement acquisitions and impacts to the dairy farm silos. The Uniform Act and FAA AC 150/5100-17 has been included in the EA in Appendix 14 as Attachment 4.

Comment Sheet

Elkins-Randolph County Regional Airport Authority

Elkins-Randolph County Regional Airport

Obstruction Removal (Runway 5-23 Approaches)

FAA AIP Project No. 3-54-0007-023-2016

You may leave your completed comment sheet in the comment box, hand it to a member of the Elkins-Randolph County Regional Airport Authority, or it may be returned by mail to the Airport Manager, Elkins-Randolph County Regional Airport, 400 Airport Road, Elkins, West Virginia 26241. Comment sheets returned by mail must be postmarked on or before February 23, 2020.

SEE ATTACHED

Harry H. Cupp III and Mina Cupp
Arnold Hill Road
Elkins, WV 26241

We own a dairy farm near the terminus of runway of 5 of the Elkins-Randolph County Regional Airport. We have operated this farm for more than fifty years. Despite the fact that our silos have been in the same place, at the same height for decades without incident or accident, the Airport Authority now seeks to lower them and reduce our capacity for feed storage. This will, in turn reduce the number of cattle we can raise, and ultimately our ability to continue to operate our dairy farm.

There are several major of concern raised by the Short Environmental Assessment Form, Obstruction Removal AIP Project No. 3-54-0007-023-2016, "EA" as follows:

1. We believe the EA dramatically overstates the amount of airport operations at 8,506 actual in 2019. EA pg. 5 Table 1.2. There is no cited data or methodology which supports this allegation of the EA. In fact, the Airport Authority's own Masterplan included with EA as Appendix 1, states a flawed methodology for determining airport operations. The Masterplan, which has not been updated in at least 8 years, cites actual operations logs for 2010 and 2011 at 1,848 and 1,179 operations respectively. The Airport Authority then extrapolates those numbers by a factor of 5 without any evidence that the actual operations were five times greater than what appears in the logs. EA Appx. 1, pg. 3-12. Because the EA fails to justify its solid data in support of operations in excess of 8,500 a year we believe its conclusions with respect to environmental are at best flawed, and possibly incorrect. It is imperative in a scientific study of environmental impact to rely on data, not merely hypothesis and conjecture.

2. The EA fails to study, or account for, the erosive impacts of tree removal on existing soil. Much of the contemplated obstruction removal area is sloping terrain which will erode more quickly if the trees are removed. The EA fails to account for this increased erosion and its effect on surrounding streams and watersheds.

3. The proposed obstruction removal project oversimplifies the completion of the project. The EA contemplates entry on, and obstruction removal from, approximately 35 different private landowners. In preparation of the EA, the Airport Authority was forced to bring suit for a mandatory injunction against 12 landowners just to gain access to conduct the

study. At least one of the 35 landowners was not noticed at all. It is reasonable to believe that many of the landowners impacted by this project will contest the Airport Authority's use of condemnation and/or the values of the proposed payment for the taking. This will lead to litigation, and possibly higher awards for condemnation. All at a greater cost to Airport Authority. This says nothing of the possibility for litigation over the use of condemnation at all. In short, this project is likely to be much more expensive than the Airport Authority represents in its EA.

4. Many of the trees to be removed are "shade" trees which lower the cost of cooling for nearby residences. The EA fails to account for the increase cost, and energy expenditure of removing these trees. A cost that will ultimately be borne by the private property owners.

5. The proposed action as it pertains to our silos will reduce our feed storage capacity. Consequently, we will either be forced raise less cattle or build additional silos to account for the difference in capacity. The former option will cost us lost revenue indefinitely, which is not accounted for by the EA. The latter will cause us to have less usable land, and will require additional work and materials, none of which is accounted for in the EA.

We believe this project is waste of resources and an infringement upon private land owners which will yield no tangible benefit for our community or the public. The EA is fundamentally flawed in its assumptions and may be factually inaccurate. Before asking the surrounding land owners to bear the burden of this frivolous project, it is incumbent upon the Airport Authority to provide us with accurate data that correctly reflects the circumstances, before, during and after their project is complete. We ask the FAA to reject the proposed EA until such time as that data is provided.

Harry H. Cupp, III

Mina Cupp

Mr. & Mrs. Harry Cupp
Arnold Hill Rd.
Elkins, WV 26241

CHARLESTON
WV 250
21 FEB '20
PM

UNITED STATES POSTAL SERVICE

1000

26201

U.S. POSTAGE PAID
FCM LETTER
ELKINS, WV
26241
FEB 21, 20
AMOUNT
$0.55
R2304M115963-04

RECEIVED
FEB 24 2020
CHAPMAN TECHNICAL GROUP

Melissa Defibaugh, PE
Chapman Technical Group
43 East Main Street
Buckannon, WV 26201

26201-271643

J. & S. Barroso
WV Elderly Care of Elkins
IVEAGH Trust, LLC
1056 Arnold Hill Rd.
Elkins, WV 26241

To:
Matthew P. DiGiulian, Manager
Susan B. Stafford, Environmental Protection Specialist
Federal Aviation Administration
Beckley Airports Field Office
176 Airport Circle, Room 101
Beaver, WV 25813

Elkins, Feb. 21, 2020

SUBJECT: OPPOSITION TO AIRPORT PROJECT

Dear Sir/Madam,

Please find attached the Public Comment contributed to and filled during the County Commission's meeting of February 20, 2020, at 1:30 p.m.

Sincerely,



J. & S. Barroso

J. & S. Barroso
WV Elderly Care of Elkins
IVEAGH Trust, LLC
1056 Arnold Hill Rd.
Elkins, WV 26241

Good Afternoon Everyone,

I am here today to add my voice, and my Wife's, to those of our neighbors and concerned Elkins citizens, who question and oppose the Airport Project that is underway, without adequate public consultation, and without proper and sufficient clarification about what this project is, what it entails, etc.

I learned about this because a neighbor called and asked if we were aware of it; we weren't! She asked if we had read the paper about a meeting regarding this project, and the damage being done, and the dissenting voices of those affected; We had not! She asked if at any time we had received any notification about this project, about any meetings, about the deadline for public comment; again, we had not, we had heard nothing whatsoever about this project. What about the 500 + page document, available for consultation at the library; once again, our answer was "No!" --- we had no idea what she was talking about.

She then mentioned that surveys were going to take place and that for non-compliant property owners, eminent domain would be used to allow the project to go ahead.

We were not impressed, and definitely not surprised? Why should we be surprised? The use and abuse of eminent domain for private gain and to meet private interests is a common practice these days; it is unconstitutional, it violates the sacred rights of land and property owners to their properties, but the abuse is rampant! The examples abound and other than this, one could mention another one that has hit hard this area: the ACP pipeline project. Eminent domain comes with intimidation intended to bring about forced compliance.

So, today, other than just join our voices of opposition to those of our neighbors (Bud Cupp, for example, and other fellow Elkins citizens that will be adversely affected by this shady project,) and who are also seeking answers, I would like to make clear that we too have questions that we would like to see answered:

1. Why is there no transparency in a project such as this, that most people have not been approached?

2. Why are property owners being threatened with the use of eminent domain, when its use, in this case, is clearly abuse, and not justified?

3. In what way does this project benefit the local community?

4. Who is truly benefiting from this project? I am told that some very resourceful people, doctors it seems, who own private jets, lobbied for this to go ahead? Is that true?

5. What compensation will affected property owners receive?

6. Why is misleading, clearly fake information being given to the public, and for what reason? (The newspaper reported that there was mention of "8560 total operations for 2019." This is a blatant lie, as stated by Bonnie Branciaroli of Pegasus Farm Campground. That would amount to 23 + airplanes and/or helicopters taking off and landing everyday, which, obviously never happens, not in any single day, let alone every day of the year!)

There are other questions, but although these suffice for the time being, and I wonder if they will be answers, I want to ask one other question: when an impact study is done, what is understood by "impact" and who are the "relevant impacted parties"? Bats and salamanders and trees, and the whorled pogonia and a myriad other species and plants are all worth protecting, no doubt! Our Wild and Wonderful WV will not be wild or wonderful if we destroy the resources we have here! However, what about the impact on people's lives? Or are we less worthy of protection, and in the eyes of the elected, a sub-species, to be squashed under foot? Are we the people of WV, are our constitutional rights to Life, Liberty, Property and the Pursuit of Happiness to be trashed, disrespected and taken away without recourse or the right to appeal?

My Wife and I will be affected in a very, very negative way by this project. Jet airplanes are going to be flying at low altitude just above our heads! If trees must be cut and silos must be removed, it's going to be very low, and this will be a major problem! The noise will be a nuisance; the disturbance will rob us of the enjoyment of our property, and potentially, our livelihood!

My Wife and I moved recently to Arnold Hill Rd. The reason why we bought this property was because we liked the quiet, and wanted to take over the Elderly Care Home facility that belonged to the previous owners of the property. For personal health reasons, we needed to get out of town, but secure a source of income, and, at the same time, **serve the local community**. We provide what we advertise as top quality service, not only because we treat elderly folk who chose to move in

with us as family, but also because the surroundings are beautiful, surrounded by farms, with a view of the mountains, and because the place is **quiet and relaxing**.

All that may well be gone if this project goes ahead.

Does anyone care? Has the impact on the lives of those affected been taken into consideration? Ours, our next door neighbor Bud Cupp, Bonnie Branciaroli, and all others? I don't think so.

I am attaching to this document, which I will leave with you and request be filled for future reference, a map of the location of our property and approach fly space to the airport, lifted from that 500 + page "environmental assessment," a copy of the newspaper article, and a copy of Elderly Care facility license, issued by the Department of Health and Human Resources, Assisted Living Program.

I end by stating clearly, once again, that we strongly oppose this project, for its lack of transparency and total disregard for the most basic rights of the people in this community. We request that a proper, transparent, full assessment covering we the people affected, may be done.

Thank you.

Sincerely,

J. & S. Barroso

(And signed, and dated 02.20.2020)



The Inter-Mountain photo by Eliana McCutcheon

rra Merrill, left, and Cassidy Pennington, right, make the best of their rainy kins.

ads Transit may expand

the VA Hospital and United Hospital Center twice a week, according to director Laura Ward at Thursday's Upshur County Commission meeting.

"We are hearing a lot from veterans that the vans which used to run to the VA, driven mostly by volunteers, are failing and they have no way to get there, "she said. "Country Roads Transit, at this point, doesn't go out of the counties we serve, so we are investigating and getting some numbers."

Ward said they would also open the Clarksburg run to the general public.

"We could take veterans to the VA and then go over to UHC and do that twice a week," she said. "Of course, everything comes with a cost."

If that plan becomes road ready, then CRT may be coming back to the

See **EXPAND** on Page A7

Residents share concerns with airport project

By Haley Gordon
Staff Writer

ELKINS – Local residents shared concerns with a FAA mandated environment assessment with the Elkins-Randolph County Regional Airport Authority during a public hearing at the James F. Cain Courthouse Annex on Wednesday.

"The entire project is an obstruction removal project mandated by the FAA and to do that, they have said we have to complete an environmental assessment," said Craig Hyre, president of the Elkins-Randolph County Airport Authority.

Over 28 acres of trees will need clear cut or trimmed near runways 5 and 23, and the environmental assessment is step one of that project.

"The project will also consist of removing or lowering five structures," explained Melissa Defibaugh, airport project manager with Chapman Technical Group. These structures include three grain silos, one light tower and one utility pole.

Defibaugh stated that the two desired outcomes from this project will be to maintain the current length of the runway available and to increase safety "both in the air and on the ground for everybody."



HYRE

The Airport Authority invited concerned members of the public to make comments at during the hearing, which will be compiled and sent to the FAA. The FAA will then decide, based on the current environmental assessment draft and complaints of constituents, if the project will be allowed.

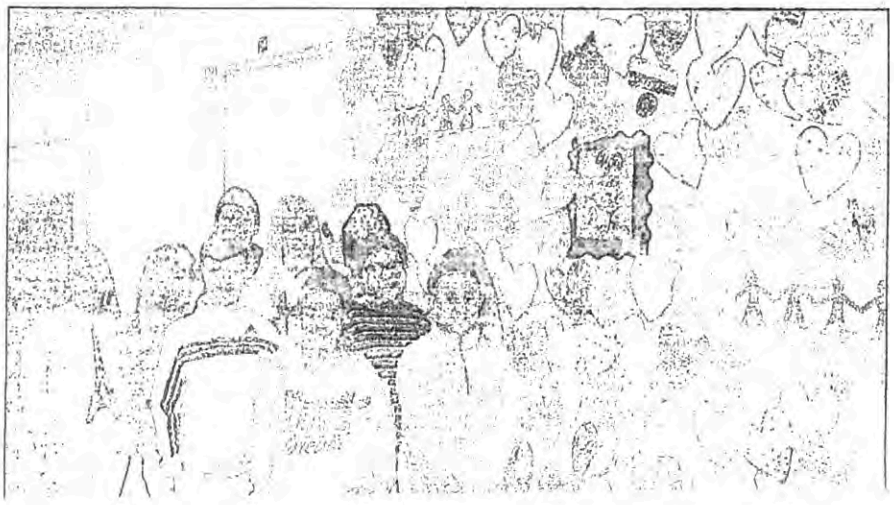
Bonnie Branciaroli of Pegasus Farm Campground was the first to voice her concerns.

"Is it worth the taking a devaluation of private property now for projects that may be 10, 20, 30 years down the road? That's one concern that we have as Pegasus Farm Campground," she said.

"We have lived next to the Elkins airport for 30 years and within that 30 year period, we have found that the airport has always been underutilized, very much underutilized," said Branciaroli. "Mark (Brancia-

See **SHARE** on Page A7

ientary students way to be kind



ıool Ele-) be les- ılor. ıev- ısks nts, ılar y?"

way they could be kind another student," Parrack said. "Students' genuine ideas were written down on a paper heart – some with special artwork – and displayed in a hallway in our school."

Paul Zickefoose, principal at Beverly Elementary, said his staff strives to offer encouragement and positivity to students everyday.

"At Beverly Elementary, our staff feels that it is our duty to our students to provide encouragement and positivity," Zickefoose said. "We want our students to be successful

stealing a laptop from Aaron's Furniture and smaller items from the Buckhannon Walmart over a several month period.

Joshua Bland, 38, of Weston, was arrested for three counts of shoplifting, third offense, all felonies, and one count of trespassing, a misdemeanor. Stephanie Goff, 27, of Roanoke, was arrested for three counts of shoplifting, third offense, all felonies.

On Jan. 22, 2020, Bland and Goff entered Aaron's Furniture in $700 and allegedly concealed the items in his coat and walked out of the store without paying for the computer, according to the criminal complaint in the Upshur County Magistrate Clerk's office.

"Stephanie Goff was attempting to keep the Aaron's employee busy filling out a credit application while Josh Bland concealed the items on his person," Loudin said.

Bland has prior convictions for shoplifting on June 9, 2020 and Aug. 22, 2019, making this the mart not ringing up a bag of cat food at the self check-out.

"Joshua is seen at the self checkout holding the bag of cat food in his arms then bagging it without scanning it," McCauley said.

Goff and Bland exited the store without paying for the cat food.

McCauley wrote in another criminal complaint that she reviewed footage from the loss prevention team at Walmart showing an alleged shoplifting incident on Aug. 20, 2019.

Joshua exits with the items he di purchase with Stephanie Goff.

On Feb. 6, 2020, McCa was reviewing footage from asset protection associate at mart. On Jan. 23, 2020, Bla seen in the Walmart parking lo made contact with the asset pr tion associate who previo caught him shoplifting, accor to the criminal complaint. B put his hood up and got in a ve to leave. Bland has had a no passing order at Walmart s

Share

FROM PAGE A1

roli) and I sat down this morning and tried to figure out how in the world you came up with 8,560 total operations for 2019. We decided to run some numbers and unless you're counting local touch and go's and maybe helicopter fill ups, if you divide that number out to a per day usage rate, that rate would be 23.6 airplanes and helicopters taking off and landing per day. We've never seen that, ever. There has never been that much traffic in the 30 years that we've been there."

Branciaroli requested more information about project timings, compensation for loss of income due to destruction and assurance that the Airport Authority will cut or trim trees according to private property standards and "clean up accordingly."

"Furthermore, let it be known that we were never contacted in any form. No phone call, no letter and no email about this project and how it would impact our property. We found out through a neighbor one week ago," she said.

Bud Cupp, a local farmer, also voiced his displeasure with the project.

"I've been in this country and run the maple grove up there for 70 or 60 years and here you're going to take over the place and you haven't even approached me about what you might give for the farm. I kind of resent that," he said.

"The poor people are Randolph county; the farmers and the timberers, the coal miners pay for these taxes," he said "Just what gives you the authority to think you can take somebody's property for something that doesn't take care of very few people?"

All comments were gathered to be sent to the FAA along with the draft of the environmental assessment. Those in attendance were also encouraged to send written comments to either the Airport Authority or the FAA. Comments must be postmarked by Feb. 23.

Identi kayak

From Staff Re

AUDRA – have released the i the female kayaker been missing sinc and is believed drowned on the Mi River.

According to inf from the West Vir partment of Militar and Public Saf kayaker has been i as Jamie L. Gray Hacker Valley, W.

Gray was repor missing at approxi p.m. on Sunday a

Expand

FROM PAGE A1

Upshur County Commission for additional funding to try it for a year pilot. For now, CRT is requesting the commission's continued support.

"We believe this program is impactful and appreciate your help in all of these 14 years we have been providing transit," Ward said.

CRT was named by former county commissioner Donnie Tenney.

"Right now the people you are investing in are people who have no other way to get to the doctor, who have no other way to get to the grocery story, to get to socialization, to get to the senior center," she said. "There's lots of studies that prove that socialization, that early medical care, that proper access to a variety of foods is important. Transit is a vital part of all of those things, so that is the investment you are making."

Ward said they had tried a service from Buckhannon to Elkins but had one rider in four months.

However, Upshur County statistics for 2018-2019 show CRT gave 6,970 rides.

CRT has demand response service in Upshur County (scheduled 24 hours in advance) and a route van from 8 a.m. to 4 p.m. Monday-Friday. Call 304-636-6472 to schedule a ride for demand response. Visit www.countryroadstransit.com for fees and a map of the Buckhannon loop.

Commission president Terry Cutright said the commission would consider the funding request during budget discussions in March.

Commissioner Sam Nolte said he appreciated the service CRT performs.

"It definitely helps a lot of people get to places that they just simply couldn't get to without you," he said.

Kind

FRO

This year's th National School Co Week was "Schoo selors: helping bui humans." This week-long recogn school counselors s a time to bring ligh

Move

FROM PAGE A1

The House Finance Committee was able to find the money to pay for the reimbursement increases from Medicaid surplus and Excess Lottery appropriations.

"This is something so many of us on both sides of the aisle had devoted a significant amount of time to for more than a year," said Delegate Jeffrey Pack, R-Raleigh. "We've met with families, talked to judges, spoken with experts in the field. We've heard immensely personal stories. We've looked into the eye of our state's most vulnerable children and their families. We've felt their pain and promised to make a positive change for them."

Delegate Lisa Zukoff, D-Marshall, was one of several Democratic members of the House of Delegates who criticized Republican lawmakers for taking their time on the bill. She said she was glad to see the bill reported to the floor Thursday.

"I'm ecstatic, I'm so excited about this bill," Zukoff said. "This is monumental legislation for West Virginia and for our children. The fact that everyone worked together in a bipartisan manner to [illegible] complished and over the finish line for a vote, I can't imagine that it won't pass."

According to department records, 7,037 children are in foster care placement as of January, an increase of 276 children since last year. The state is being sued by three groups over its treatment of foster children.

Lawmakers are also looking at other pieces of legislation that help students with childhood trauma. House Bill 4649 would require the state Board of Education to implegrades K-12. The House Educati Committee recommended H 4649 for passage as well Thursd morning. A companion bill, Hou Bill 4851, would screen childr for adverse childhood experienc (ACE).

Zukoff said students often ha a hard time learning when they' faced traumatic incidents, su physical or emotional abu parental drug use, or extrer poverty. Screening children f ACEs and using trauma-inform practices in school can help identi

STATE OF WEST VIRGINIA
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Office of Health Facility Licensure and Certification
Assisted Living Program
408 Leon Sullivan Way
Charleston, West Virginia 25301-1713
Telephone: (304) 558-0050 Fax: (304) 558-2515

Jim Justice
Governor

Bill J. Crouch
Cabinet Secretary

VERIFICATION OF REGISTRATION

LEGALLY UNLICENSED HEALTH CARE HOME

This is to verify that **Joao and Sasha Barroso** has completed the registration process through the

OFFICE OF HEALTH FACILITY LICENSURE AND CERTIFICATION
ASSISTED LIVING PROGRAM

pursuant to West Virginia State Code §16-5e-1 et. seq., and Legislative Rule §64CSR50, Legally Unlicensed Health Care Homes and is able to provide services to one (1) to three (3) residents at this location:

Facility ID: 509189
Barroso, Joao and Sasha (DBA Iveagh Trust LLC)
1056 Arnold Hill Road
Elkins WV 26241

Kelli Cooper
Assisted Living Program Manager

10/29/19
Date


110-12
110-16.2
110-17
110-14
110-22
WV Elderly Care of Elkins
IVEAGH Trust, LLC
1056 Arnold Hill Rd.
Elkins, WV 26241
Ph. (304) 636-6164

J. & S. Barroso
1056 Arnold Hill Road
Elkins, WV 26241

7019 2280 0000 6954 7350

UNITED STATES POSTAL SERVICE

1000

25813

U.S. POSTAGE PAID
FCM LETTER
ELKINS, WV
26241
FEB 21, 20
AMOUNT
$4.25
R2305H127563-11

To:
Matthew P. DiGiulian, Manager
Susan B. Stafford, Environmental Protection Specialist
Federal Aviation Administration
Beckley Airports Field Office
176 Airport Circle, Room 101
Beaver, WV 25813

25813$9475 H073

Comment Sheet

Elkins-Randolph County Regional Airport Authority

Elkins-Randolph County Regional Airport

Obstruction Removal (Runway 5-23 Approaches)

FAA AIP Project No. 3-54-0007-023-2016

You may leave your completed comment sheet in the comment box, hand it to a member of the Elkins-Randolph County Regional Airport Authority, or it may be returned by mail to the Airport Manager, Elkins-Randolph County Regional Airport, 400 Airport Road, Elkins, West Virginia 26241. Comment sheets returned by mail must be postmarked on or before February 23, 2020.

HELLO

I AM A LANDOWNER THAT IS CONCERNED ABOUT THE PROPOSED PLAN OF THE AIRPORT AUTHORITY I HAVE LIVED AT THE END OF RUNWAY 23 FOR 76 YRS. THE DATA IN THIER PLAN DOES NOT SUPPORT THIER PLANS. ALSO WHAT ABOUT THE RUN OFF IN HEAVY RAINS. AS WE ALL LIVE ON HILLS. SOME OF THE HILLS IS ALREADY SLIPPING EVEN WITH THE TREES NOW. THANK YOU FOR YOUR CONSIDERATION AND HELP IN THIS MATTER. ALSO THEIR HAS BEEN ENTIRELY NO PROBLEMS IN THE PAST. ALSO THEY REMOVED THE LIGHTS THAT USED TO BE THEIR.

Please continue on the back if additional space is needed.

Name: JOE KISNER

Address: RT 4 BOX 370 ELKINS WV 26241

Email:



Joseph Kisner
R.R. 4 Box 370
Elkins, WV 26241

CHARLESTON WV 250
20 FEB 2020 PM 4 L

SUSAN STAFFORD
BECKLEY AIRPORT FIELD OFFICE
176 AIRPORT CIRCLE ROOM 101
BEAVER, WV
25813

25813-947525

Comment Sheet

Elkins-Randolph County Regional Airport Authority

Elkins-Randolph County Regional Airport

Obstruction Removal (Runway 5-23 Approaches)

FAA AIP Project No. 3-54-0007-023-2016

You may leave your completed comment sheet in the comment box, hand it to a member of the Elkins-Randolph County Regional Airport Authority, or it may be returned by mail to the Airport Manager, Elkins-Randolph County Regional Airport, 400 Airport Road, Elkins, West Virginia 26241. Comment sheets returned by mail must be postmarked on or before February 23, 2020.

My name is Linda Little. I am a landowner that is being AFFECTED By the Proposed project for the Elkins Randolph County Airport. OF the 569 page report, I do not feel that the DATA supports the NEED for what the Airport wants to do. Most of the DATA I READ, was from 2003-2011 NOTHING current. I HAVE approximately 1 ACRE that they want to clear cut. I DO NOT want my trees CLEARCUT or trimmed. It will kill them AND DEvalue My Property. The Air traffic AT the Elkins Airport has declined over the past several YEARS. Currently it DOES NOT support the NEED for this project NOR the Amount of people it will AFFECT.

Please continue on the back if additional space is needed.

Name: Linda Little

Address: Rt 4 Box 370 Elkins WV 26241

Email: little@cebridge.NET.

Linda Little
Rt 4 Box 370
Elkins WV
26241

CERTIFIED MAIL

CHARL
MAY 25
20 FEB
PM 4 L

UNITED STATES POSTAL SERVICE

1000

25813

U.S. POSTAGE PAID
FCM LETTER
ELKINS, WV
26241
FEB 20, 20
AMOUNT
$6.95
R2304M115176-03

7019 0140 0000 3012 9829

Susan Stafford
Beckley Airport Field Office
176 Airport Circle
Rm 101
Beaver, WV 25813

BC
2-22
RB

25813-947526

133 Clifton Run
Kerens, West Virginia
26276-8571
January 20, 2020

FAA
Beckley Airport Field Office
176 Airport Circle
Room 101
Beaver, West Virginia 25813

Re: Obstruction Removal
Runway 5-23 Approaches
AIP Project No.
3-54-0007-623-2016
January 20, 20 - Review

I saw the public notice in The Elkins-Inter-Mountain and mentioned it to a few people, none of whom knew anything about it. When a notice of a public hearing appeared I again mentioned that to a few people none of whom knew anything about it. Then I read the Inter-Mountain article with comments by Ms. Branciaroli and Mr. Cupp.

I called Bonnie Branciaroli and she gave me the information at the top of this page. I do not have a computer or transportation to the Library. There is no way, although I am a fast reader, that I could read 500 plus pages and analyze them in a couple of days.

133 Clifton Run
26276-8571

It has been my long-time understanding that both the Elkins and Greenbrier County (and perhaps others) are suitable for Air Force One to land.

Why, suddenly, do runways need further clearance approaches for ~~runways~~? Rumors abound: Two rich doctors want lights so they can fly in after dark. The increased night helicopter flights from Camp Dawson will be landing and taking off. (Quite a while back we were treated to Tuesday night helicopter training. Last summer it was announced that night practice would be resumed, but over a larger area.) Low-flying military jet flights would be flown over the entire region. (When the third spire at Seneca Rocks fell after extended flights of Navy jet planes passing on low-altitude runs, that practice stopped.)

According to some, this tree clearcut has been known for years. Where are the newspaper stories?

We need every tree we can get. How will nearby homes, Fox Forest, DNR, Elkins High School and the watershed be affected? Maybe Chapman has analyzed them in addition to the area to be clearcut. Trees absorb, to their detriment depending on the species, an incredible amount of pollution. The canopy disperses precipitation and allows it to permeate the soil, preventing runoff and curtailing flooding. I oppose this clearcut.

Please share this information with Elkins City Council, Randolph County Commission and Elkins-Randolph County Airport Authority. Thank you.

Marion Harless

Marion Harless
133 Clifton Run
Kerens, West Virginia
26276-8571

CHARLESTON WV 250
22 FEB 2020 PM 1 L



P.S.
Sorry - I think I may have dated the enclosed January instead of February 1

FAA
Beckley Airport Field Office
176 Airport Circle
Room 101
Beaver, West Virginia 25813

25813-947526

1 of 7
MGJ

February 23, 2020

Elkins-Randolph Regional Airport (Authority)
400 Airport Road
Elkins, WV, 26241

Re: AIP 3-54-0007-023-2016 (I believe this is correct).
Associated with EPA's required EIS, proposing a project in the vicinity of the Elkins-Randolph Regional Airport near Elkins-Randolph County, WV., as apparently issued public notice in the Intermountain-local newspaper on January 24 and 31, 2020 and noting 15± acres of clearing and 12± acres of reducing specific projection heights, including lowering 3 silos, an antenna and utility pole in addition to further minor project work as set forth in a document prepared by Chapman Technical Group of Buckhannon, WV.

Submitted and signed by:

Milford G. Jones

Milford G. Jones
25 Mountain Meadows Lane
Mill Creek, WV, 26280
Randolph County, WV.

CC Beckley Fld. Office - FAA

I do not have computer access in my geographical area of Randolph County.

I am in complete opposition to the Project objectives of the proposal.

- Obviously the historic use numbers (though they may meet some definition of use prescribed by the FAA including contacts with the airport Facility --- I am not privy to your "use definition") are "way off" and do not comport to any reality of "FACILITY USE".
The numbers for "USE" do not at all come close to a short stretch of what truth would be considered by any lay-public --- nonetheless aviation knowledgible individuals within the the general public,

The "Use" numbers as enumerated by "Chapman" Are NOT True reality.

- The absolute distruction of the private property and the use of that property in perpetuity is not worth the negative impact of any positive value of the project ... it does not INCREASE the potential for use - FAA has stipulated higher standards for approach zones and therefore the project brings NO changed positive value.

- Under the proposal to "buy storage capacity for the 3 silos height reduction" --- it is a documented fact - micro-biological and physically stupid assumption that this "silo use" can be approximated in actuality. Height (due to gravity) is a factor of mass-weight of contents - ability to pack contents & reduce ability for air contact with contents - -- in a vertical silo. This effects the ability to transform the acid transforming - preservation capabilities of the contents under high-moisture conditions - FERMENTATION.

Again — reducing height of the silo of the in-place-silo will significantly reduce capability to provide adequately fermented feed product for a nutrient-dense feed for ruminant livestock consumption. This is true, no matter if the product is grass, legumes, corn ears - stover or wet corn. Fermentation greatly enhances the food value of the raw feed ensiled & improper fermentation will create moldy - spoiled - unpalatable livestock feed.

There is no equivalent to height for gravity compaction of (to reduce the oxygen contact with contents) which contributes to the fermentation process.

This why in horizontal silos -- so much mechanical compaction must be applied to the ensiled contents - from the bottom-up as the capacity is built and then quickly sealed and weighted at the top-out.

A vertical silo is not only a bulk storage facility, it is also - under proper height - gravity - weight conditions a fermentation vat. The fermentation significantly improves the nutrient density and quality and palatability of the ensiled product. Do not require height reduction of the 3 silo's - A substitute cannot, in actuality, be purchased.

The silo's owners' income can be substantially altered by lowering these silo's - in perpetuity.

- Lack of sufficient copies of the EPA-EIS available for adequate public review.

I have been informed by Melissa @ Chapman Technical Group that there are only 2 copies available for public review in Randolph County. I was told I could either go to the Elkins library or the Airport - No other alternate sites in Randolph County for Randolph County interested parties.

6 of 7
mef

THIS IS JUST NOT SATISFACTORY.

There is a large part of Randolph County that is - say - not within reasonable commuting distance of Elkins ---. There is - you know, more to Randolph County than "ELKINS".

Why can't copies be made available for Harman, Tygart Valley - Mill Creek Helvetia, Valley Head - - etc - - Community Library(s). ?

Compared with the cost of the EIS -- say - having 10 more copies available for study & observation about Randolph County -- for the public to access particularly in proportion to the cost of the copies required for all of the bureaucratic agencies and their staff to review. Make more copies available for Randolph County — EVEN NOW.

County

It appears the Airport Authority in Not making copies available to the public were trying to keep the project & County Commission QUIET -- HUSH UP Public.

- By clearing of vertically extended vegetation you will be removing environmentally aesthetically pleasing trees which have over the years created an intimate environment and view-scape for local residences and at least two local business's (elderly care home & campground facilities).

Don't take the trees down or reduce their height — on or near the view scape of the property of local residences business's and farms.

Response Requested:

I am urgently requesting that you put the proposed project on "pause" until you provide the interested public an opportunity to review the EIS at locations appropriate to other locations in Randolph County other than ELKINS, WV.

Thank-you, (NOT for the ability to review the EIS but to get phone information from Clayton)

Milford Jones

Milford B. Jones

Interested Randolph County Taxpayer - WV.

(Dairy Farmer Retired, P.E. retired)

Milford Jones
25 Mountain Meadows Ln.
Mill Creek, WV 26280

CHARLESTON WV 25
24 FEB 2020 PM 2 L



ADDITIONAL OUNCE USA

FAA - Beckley Field Office
126 Airport Circle
Room 101
Beckley WV
25813
25813-995026

Comment Sheet

Elkins-Randolph County Regional Airport Authority

Elkins-Randolph County Regional Airport

Obstruction Removal (Runway 5-23 Approaches)

FAA AIP Project No. 3-54-0007-023-2016

You may leave your completed comment sheet in the comment box, hand it to a member of the Elkins-Randolph County Regional Airport Authority, or it may be returned by mail to the Airport Manager, Elkins-Randolph County Regional Airport, 400 Airport Road, Elkins, West Virginia 26241. Comment sheets returned by mail must be postmarked on or before February 23, 2020.

We have lived beside the Elkins Randolph County Airport for 56 years and have watched the effects of replacing grass fields and removed trees with concrete. Trees need to be planted to correct and prevent erosion. Many species of trees remain and provide shade and protection from winds. We have many migratory birds that would miss the trees. We oppose the remoual of the trees. Too many would be affected for the recreation of a few.

The Proposed Action for the replacement of existing Silo structures will not work. It takes over 150 days for one crop of corn for a silo - that is one crop / season. (May thru Oct)

Please continue on the back if additional space is needed.

Name: Mina Cupp

Address: 820 Arnold Hill Rd

~~Email~~: Elkins W.Va. 26241

U.S. POSTAGE PAID
FCM LETTER
ELKINS, WV
26241
FEB 21, 20
AMOUNT
$6.95
R2305H127563-11

25813

1000

7019 2280 0000 6954 7435

MINA H. CUPP
820 ARNOLD HILL RD.
ELKINS, WV 26241

Beckley Airports Field Office
176 Airport Circle Room 101
Beaver, W. Va 25813

re: Section 7 Consultation for Obstruction Removal, Installation and Marking/Lighting at (EKN).

ment Sheet

ty Regional Airport Authority

County Regional Airport

l (Runway 5-23 Approaches)

No. 3-54-0007-023-2016

ent sheet in the comment box, hand it to a
ity Regional Airport Authority, or it may be
er, Elkins-Randolph County Regional Airport,
a 26241. Comment sheets returned by mail
ary 23, 2020.

Elkins Randolph County Airport
tached the effects of replacing grass
concrete. Trees need to be
event erosion. Many species of
shade and protection from
soaring birds that would
use the removal of the
be affected for the recreation

the replacement of existing silo
. It takes over 150 days
for a silo - that is one
Oct)

space is needed.

Name: Mina Cupp

Address: 820 Arnold Hill Rd

Email: Elkins W. Va 26241

2-21-2020

Matthew P. DiGiulian, Manager
Susan B. Stafford, Environmental Protection Specialist
Federal Aviation Administration
Beckley Airports Field Office
176 Airport Circle, Room 101
Beaver, West Virginia 25813

Mr. DiGiulian/Ms. Stafford:
This letter is written in response to the Short Environmental Assessment Form, Obstruction Removal AIP Project No. 3-54-0007-023-2016 and a Review Draft that was submitted for public review by the Elkins-Randolph County Airport Authority and Randolph County Commission on February 10, 2020.

Let it be known before we begin that the public was not given enough notice concerning the date of the public hearing. The notice was run in the local paper on Monday, February 10 for a Public Hearing to be held on Wednesday, February 12, giving the public two days to read and evaluate a 569-page report. See attachment A, or online:

https://www.theintermountain.com/news/local-news/2020/02/public-hearing-scheduled-for-airport-project/

Please take note that in this notice of Public Hearing Commissioner Mark Scott indicated that the "obstructions to the runways have been a consistent problem for pilots attempting to make a precision IFR approach in the evenings". Elkins-Randolph County Airport does not have a designated *precision* IFR approach currently, and very few flights use Runway 5 in the evenings, even during VFR conditions – which will bring me to another concern later in this letter. Commissioner Scott, who represents the residents and the communities involved in the project, should have been more forthcoming in the plans for the airport and how these plans integrate with what will be happening to our landscape, both in the notice and at the public hearing. What is happening now is only Phase I of three phases to create an IFR precision approach in 2023, and only if federal funds are again received to continue forward. It appeared to us that both Commissioners at the Public Hearing knew very little about the Project or the Airport in general.

Our property (a residence and commercial business) abuts the western boundary of the airport property and narrows to the end of runway 5. Our land is divided into two parcels. Our concern lies within the 4.77 acres sandwiched between the Elkins-Randolph County Airport parcel: Tax Map III Parcel 74.1 DB 533/587, purchased from the Ward family in 2009, and City of Elkins Tax Map III Parcel 45 DB 155/208 – the Airport.
(See Attached Map B.)

I want to begin this list of concerns with the fact that we were not notified by the Elkins-Randolph County Airport nor Chapman Technical Group by either letter, phone or email, even though our property is listed as impacted property on page 41 (See Attachment C) and noted in map on page 487. (See map D).

We did not see the letter sent to all affected property owners around June 20, 2019, until our neighbor notified us asking if we had received it and showed us the sample she had received as part of the Petition for Declaratory and Injunctive Relief issued to those owners who did not comply to approving the plant survey on their properties by the Elkins-Randolph County Airport Authority. It was the first time we had seen the Chapman letter asking for survey permission, and again, that was three days before the public hearing on Feb. 12, 2020.
(See attachment E.)

It was even more perplexing when our neighbor showed us a copy of the Civil Court Case #19-C-89 and Summons noting that we were not listed with the 12 other property owners who had not sent in their approval sheets to have their land surveyed.
If we were not initially notified, we would not have received the request for permission to survey, could not have been on the "list" of property owners who did not comply, and therefore, would not receive a letter from the Airport Authority's attorney. (See attachment F.)

The letter sent to the property owners from the law offices of Busch, Zurbuch & Thompson, PLLC indicated that those owners would be petitioned to court if they did not comply. We, of course, did not receive that letter.
(See Attachment F-2)

According to the Federal FAA grant (AIP # 3-54-0007-023-2016) offered to the Elkins-Randolph County Airport Authority on August 2, 2016 and agreed upon by the Airport Authority president Nils Heinke on August 9-10, 2016, the project must:

7."be given fair consideration to the interest of communities in or near where the project may be located."
and
9. "That projects involving an airport runway affords the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project."
(See Attachment G.)

As residents, property and business owners impacted by this project, we are requesting copies of transcripts of all hearings and meetings from the Airport Authority Secretary concerning the proposed project briefly outlined in the Short Environmental Assessment Form, Obstruction Removal AIP Project No. 3-54-0007-023-2016 and a Review Draft, from its inception, (i.e., before the Elkins-Randolph County Airport Authority sent the letter dated July 12, 2016. notifying Kurt Blankenship, then Federal Aviation Administration manager at the Beckley, WV Field Office, that the "Authority had completed an analysis on costs associated with the project included in the Application for Federal Assistance for FAA AIP Project No. 3-54-0007-023-2016," to the present date.

(See Attachment "L".)

It seems to us the communities and public affected should have been made more aware of the proposed AIP Project BEFORE $139,971.00 in federal funds were acquired, and $19,052 of our tax monies spent to begin the project of an Environmental Assessment.
(See attachment G.)

Plant Survey Concern
Here is the list of plants and recommended survey dates noted in the "Procedures for Conducting Surveys for Federally Threatened or Endangered Plants in West Virginia". (See Attachment H.)

Endangered plants and survey periods:
Arabis serotina - survey period - August 1 - Sept. 30
Ptilimnium nodosum - survey period - July 1 - Sept. 30
Scirpus ancistrocheatus - survey period - August 1 - Sept. 30
Trifolium stoloniterum - survey period - May 1 - Sept. 30

Threatened species and survey periods:
Isotria medeoloides - survey period - May 1, Sept. 30
Spirea virginiana - survey period - June 1 - Sept. 30

It is noted on page 4 of the Petition for Declaratory and Injunctive Relief issued to twelve Randolph County property owners that the "plant surveys for the 17 consenting property owners were completed within 10 days in July 2019."

We can ascertain here that the survey is NOT complete, noting that the survey date recommended by the Fish and Wildlife Service for *Arabis serotine* and *Scirpus ancistrocheatus* should have been AFTER August 1. (See Attachment H-2.)

Although the US Department of the Interior/Fish and Wildlife Service accepted file: FWS File # 2016-I-0730, the survey conducted by Gary L. Libby in a letter dated November 22, 2019 (page 412), approval was granted without full application and adherence to the "Procedures for Conducting Surveys for Federally Threatened or Endangered Plants in West Virginia" as required by the WVDNR and USFWS.

How? By not surveying at the proper time and not surveying our property. We saw no documentation and photos of our property in Area 6. (See attachment I.)

The map on page 540 (Attachment J) indicates area to be trimmed or cut, and definitely includes our property, however, the Skybax Plant Survey maps do not include any conclusion as to whether there were plants found on our property, or offers any map identifying that it was surveyed. (See Attachments I and J.)

The only indication that we have that our property was looked at and evaluated (without our permission) is page 485 and 486 where the schematic soil profile indicated that:

"If cultural materials are encountered as a result of tree removal, it is recommended that work stop."
(See attachment K.)

We cannot and will not accept that option due to error on the part of the Airport Authority and Consultant Chapman Group for not contacting us.

Bat Identification
We do have bats here and would like a Bat survey to determine if the three bats concerned may be found on this property.
(See Attachment M.)

OTHER CONCERNS
We have lived at this location next to the Elkins-Randolph Airport for nearly 30 years. We know the traffic. My husband, Mark Branciaroli, is a pilot, owned a twin for 18 years and was very active at the Airport until we opened our campground in 2008.
Elkins Airport has always been underutilized. We are skeptical concerning the data of: "8.560 total operations for 2019"
(See Attachment N.)

If you divide this number out to a per-day usage rate, that rate would equal 23.6 planes/helicopters per day. There has never been that much traffic at this county airport. According to the FAA Registry, the Elkins-Randolph County Airport houses no local planes that need a Precision IFR night approach. However, a King Air and twin jet are owned by two Elkins residents, but not listed on the registry.
(See Attachment O.)

We would like to see more data on how the 8,560 number was derived. Attached is an ATADS report for the International Airport of Pittsburgh (PIT). The Combined TRACON and Tower with Radar report for 2019 notes that the number for General Aviation operations was 7,096. There is no possible way Elkins even comes close to this number, or even surpasses that number.
(See Attachment N-2.)

We also request a projection report to determine how the Obstruction Removal project and the addition of a Precision IFR runway will boost the local economy. Surely, that projection analysis has been done.

It had been brought up at the public hearing on Wednesday, February 12 that life-flight helicopters need the IFR Precision night approach. However, USDT/FAA Advisory Circular (AC No. 90-66B notes that at Non-Towered Airport Flight operations helicopters may land at a lower altitude (500 feet AGL), than fixed wing aircraft.
(See Attachment P.)

This project includes over 28 acres of trees being cut or topped and 29 local residents and businesses impacted by the process. Most of this land is mountainous, with steep hillsides. There is no mention in the Assessment of how this will affect the property owner as far as future run

off of water from heavy rains due to lack of trees, and how that will affect an individual's property overall. The Short Form Environmental Assessment does not touch upon this subject.

Land Abuse History

As we mentioned, we have been at our location for nearly 30 years. Our campground, Pegasus Farm Campground, was built in 2007. Our land is not in the flood plain. The campground land is bordered by the Elkins-Randolph County Airport to the east, and Chenoweth Creek to the north. In the 30 years we have been here, it has flooded only once and that was after the Airport authorized a major cutting of timber on the west side of Runway 5/23, along Chenoweth Creek, north of our campground location. We believe the cutting took place in 2009-2010 and that the project may have been an AIP funded project.
(See Attachment T.)

There is a 180-degree bend in the creek just as it reaches our land. The banks of the creek are extremely steep and have held the creek for many years, but a log jam from cut trees and debris was discovered and before we could even consider how to deal with it, a deluge hit, the creek rose, the log jam blocked the flow of the creek, and the creek broke its banks.
Four inches of mud covered the entire campground. As we picked up the mud with dozers and backhoes, we lost all the gravel in our lots and roads. It cost thousands to restore it back to its original look.

We had to close our business for over a week, hire extra help to run large machinery, and of course, purchase gravel at $400 a truck load. See Photo # 1 to consider how much gravel it would take to restore the road system.
(See Map Bank R.) (See Photos 1-7.)

We have to contend with this problem every year, since that first flood, and with this letter we are alerting the FAA and the Airport Authority to look into the problem and *we request the FAA to inspect the area and the Elkins-Randolph County Airport Authority to cleanup residual timber and branches.*

The point of this dissertation and attached photographs is to suggest to the FAA and Airport Authority to factor in due diligence of work contracted and put more wording into the Assessment regarding responsibility of the Sponsor (Elkins-Randolph County Airport Authority) to factor in clean-up due to water runoff damage through the adverse effects of timbering, clear cutting and tree topping steep terrain in the northern sector (Runway 23). Not only will the landowners be impacted, but the road system, drainage systems, and properties in the valley surrounding the timbered and topped areas will definitely be impacted. Clean up and the constant maintaining will come from our county tax dollars.

Phase II: Property Taking by Eminent Domain

If this Assessment is to be approved, the next step will be the Design Phase, which includes acquiring and negotiating Avigation Easements and Obstruction Removal Agreements, and preparation of a construction plan for tree trimming and clearance.
(* page 3 of the Civil Case Information Statement/Case#19-C-89.)

Note on page 11 of the Short Environmental Assessment Form, Obstruction Removal AIP Project No. 3-54-0007-023-2016 and a Review Draft:
#3. Project Purpose and Need: The purpose of the easement acquisition is to facilitate the removal of the offending obstructions as well as to *increase the Airport Authority's future control over the approaches to Runways 5 and 23.* It is anticipated the project will be completed by April 2022.
(See Attachment Q.)

Property owners must be made aware of and understand that the acquisition of or taking of Avigation easements means that the land no longer belongs to the property owner, but to the government – the City of Elkins and the Elkins-Randolph County Airport.

Property owners must be given fair notice with enough time to make knowledgeable decisions concerning their property… which to this point, they have not been.

Phase III: Tree Clearing
The Third Phase is the tree trimming and obstacle clearing project, bidding and performance.

Note on page 9 of the Short Environmental Assessment Form, Obstruction Removal AIP Project No. 3-54-0007-023-2016 and a Review Draft:

Tree Clearing
"All trees will become property of the Contractor and will be removed from the project site. It is anticipated the bulk of the removed trees will be marketable and will be further processed by the Contractor. The remaining trees, which are not deemed to be marketable, will be removed from the site and disposed of at an off-site location. The Contractor will also be required to remove all downed timber and limbs. All limbs and smaller slash/waste will be disposed of by chipping."
(See Attachment Q.)

If the project gets to Phase III, the property owners should be monetarily reimbursed the marketable value of the timber taken off their land. As the Assessment reads now (see above), all marketable timber will be the property of the Contractor. That wording should be altered to include property owner will be paid market value for all timber removed from the property.

Tree Topping
Property owners must be made aware that tree topping may work for short-term ease, but ten years down the road, most of those trees will have died and fallen onto their property. Therefore, becoming the responsibility of the property owner to clean up. As they die and fall through the years, the debris will injure landscaping material close to the fall-line. We know. It has happened to us and our property.

The City of Elkins/Airport Authority purchased a tract of land from the Ward family in April 2009. This land borders the western side of our property.
(See Attachment S.)

In 2009, the Elkins-Randolph County Airport proposed a similar Runway 5 extension project and received AIP federal funds for the acquisition of the Ward property and the clearing of said property.
(See Attachment T.)

All the property was clear cut, except for a stand of trees situated between our home and the Cupptane Bulk Propane facility, located on the Cupp family property. We were able to keep most of that stand due to a misrepresentation in the project profile which included an issue concerning the airport's classification and associated glide slope width. The trees within the narrowed glide slope approach were topped, rather than cut.
Now, ten years later, most of those trees have died.
(See Photos 8-9.)

Note here that the topping process completely changes the ecosystems. Shade is lost, resting areas for migrating birds lost, there is a rapid growth of underbrush, especially brambles. Any flora requiring shade is lost.

In this process of topping and change of ecological climate, we lost thousands of dollars of landscaped trees and shade plants established in the mid-90s when we grew a commercial landscaping business called Bonnie's Gardens. The entire shade gardens were lost and the upper gardens near the house compromised due to change in sun and shade patterns.

In this ten-year process we learned that younger trees respond and will still grow under topping (and that depends upon the type of tree), older trees of diameter more than 8 inches will not survive, and most pines will not survive.
(See again Photos 8-9.)

This needs to be taken into consideration when discussing options with landowners with steep grades. Not only will the topped trees die within the decade, but there will be issues with debris runoff after the affected trees die, fall, and decay.
We suggest that an Environmental arborist, or several arborists, be involved with the Phase II and Phase III process of this project and that be included in the Environmental Assessment.

SAFETY ISSUES
As Melissa Defibaugh, airport project manager with Chapman Technical Group explained during the public hearing on Wednesday, February 12, 2020, one of the desired outcomes is to *"increase safety... on the ground for everybody."*
(See attachment U.)

In the 30 years we have lived here we have looked at the stand of trees indicated on Map V as a buffer of safety between our home and the Cupptane Bulk Propane facility. There has not been an accident to date, but it is comforting to know that there is a buffer of trees there that could act as a safety buffer factor to us and the hundreds of campers who traverse this property every month during the summer months. If those trees are cut or even topped, we lose our "safety" zone.

Either topped or cut, we will be requesting from the FAA and the Airport Authority either compensation to build or construction of a twelve to fifteen-foot buffer fence to be built within that Area 6 zone. (See Plant Survey Map V.)
(See Obstruction Map W.)

In Conclusion
The Branciarolis maintain that more information needs to be forthcoming on this project. That we, as impacted property owners, be notified of said project, that we have the right and the option to be surveyed, and that more public notices and hearings be scheduled before the FAA approves the Short Environmental Assessment Form, Obstruction Removal AIP Project No. 3-54-0007-023-2016 and a Review Draft.

Before this draft is approved,

1. plant surveys need to be conducted accurately on properties that were not, and on our property, and that all that data be made available to the property owners.
2. A bat survey is requested on our property as well.
3. We request more improved data on 2019 Airport Operations and that a projection report to determine how the Obstruction Removal project and the addition of a Precision IFR runway will boost the local economy.
4. We are also requesting an erosion assessment be added to this Environmental Assessment short form.
5. that more wording added into the Assessment regarding responsibility of the Sponsor (Elkins-Randolph County Airport Authority) to factor in clean-up due to water runoff damage through the adverse effects of timbering, clear cutting and tree topping steep terrain on individual properties.
6. that the FAA inspects and the Elkins-Randolph County Airport Authority cleanup residual timber and branches from a past AIP project mentioned above.
7. that wording be added that individual property owners be monetarily reimbursed the marketable value of the timber taken off their lands.
8. that an Environmental arborist, or several arborists, be involved with all Phases of the process of this project and that be included in the Environmental Assessment.
9. we request from the FAA and the Airport Authority either offer compensation to build or they construct a twelve to fifteen-foot buffer fence to be built within the Area 6 zone if it is trimmed or cut between the Branciaroli property and Cupp property.
10. That the Branciarolis be added to the list of property owners for any future dissemination of information. We request to be notified so we know exactly when this project on Areas 6 and Obstruction 7 will take place.
11. That any loss of income due to this unnecessary destruction would need to be compensated.
12. That Airport-owned land bordering our lands must be cleared to the most stringent ecological and environmental standards possible and that we be assured that land owned by the Airport Authority will be cut similar to private property standards and cleaned up accordingly.
13. Any damage to the RV access road be fixed or compensated for and never be obstructed during our open season (April 15-Nov. 15).

14. We request to be visited by the proper personnel who will have knowledge as to what is to be done on our property and explain to us what will be cut and what will be trimmed.
15. That, if there be a taking of our property (as explained on page 340 of the Assessment) that we be compensated for said property, that damages be paid, and that any devaluation of our property be compensated at market value.

Thank you,

Mark and Bonnie Branciaroli.

Mark and Bonnie Branciaroli
624 Arnold Hill Road
Elkins, WV 26241
(304) 642-2351
bonniesuemark@gmail.com

2-21-2020

cc
Elkins-Randolph County Airport Authority, President Craig Hyer

The Inter-Mountain

February 19, 2020 | Today's Paper | Submit News | Subscribe Today

Public hearing scheduled for airport project

LOCAL NEWS

BROOKE HINZMAN
Staff Writer

SHARE TWEET

ELKINS — A public hearing will take place this week regarding a project at the Elkins-Randolph County Regional Airport Authority.

The special meeting for public comment on the Elkins-Randolph County Regional Airport Authority's draft environmental assessment is set for 6 p.m. Wednesday in the Randolph County Commission Chambers at the James F. Cain Courthouse Annex in Elkins.

According to information provided within the environmental assessment, the proposed project consists of clearing 16.14 acres of trees and trimming 12.37 acres of trees in addition to removing or lowering a total of five structures — three grain silos, one obstruction light tower and one utility pole — which obstruct the approach surfaces of runways 5 and 23.

"The only structure that needs to be removed is a silo that's just outside of the airport property," Randolph County Commissioner Mark Scott said.

He added the obstructions to the runways have been a consistent problem for pilots attempting to make precision IFR approaches in the evenings.

"(The project) will allow planes to be able to operate under non-visual conditions 24 hours a day," said Scott.

Scott stated that some of the obstructions are located on private property and that the owners of the property have been contacted for *"probably over a year now."*

The environmental assessment document is available for public review online at http://elkinsairport.com ,and in person between the hours of 9 a.m. and 4 p.m. at the Elkins-Randolph County Regional Airport, the Elkins-Randolph County Public Library and the Chapman Technical Group in Buckhannon.

The airport was built in the 1930s, and during World War II the airport was used as a U.S. Army Air Corps training base, according to the airport's website. The airport was also used as an evacuation facility for east coast military bases during hurricanes. Lake Central Airways, a predecessor to US Airways, began passenger air service using DC-3s. This service continued until 1994.

JPP
RCEL 14
76

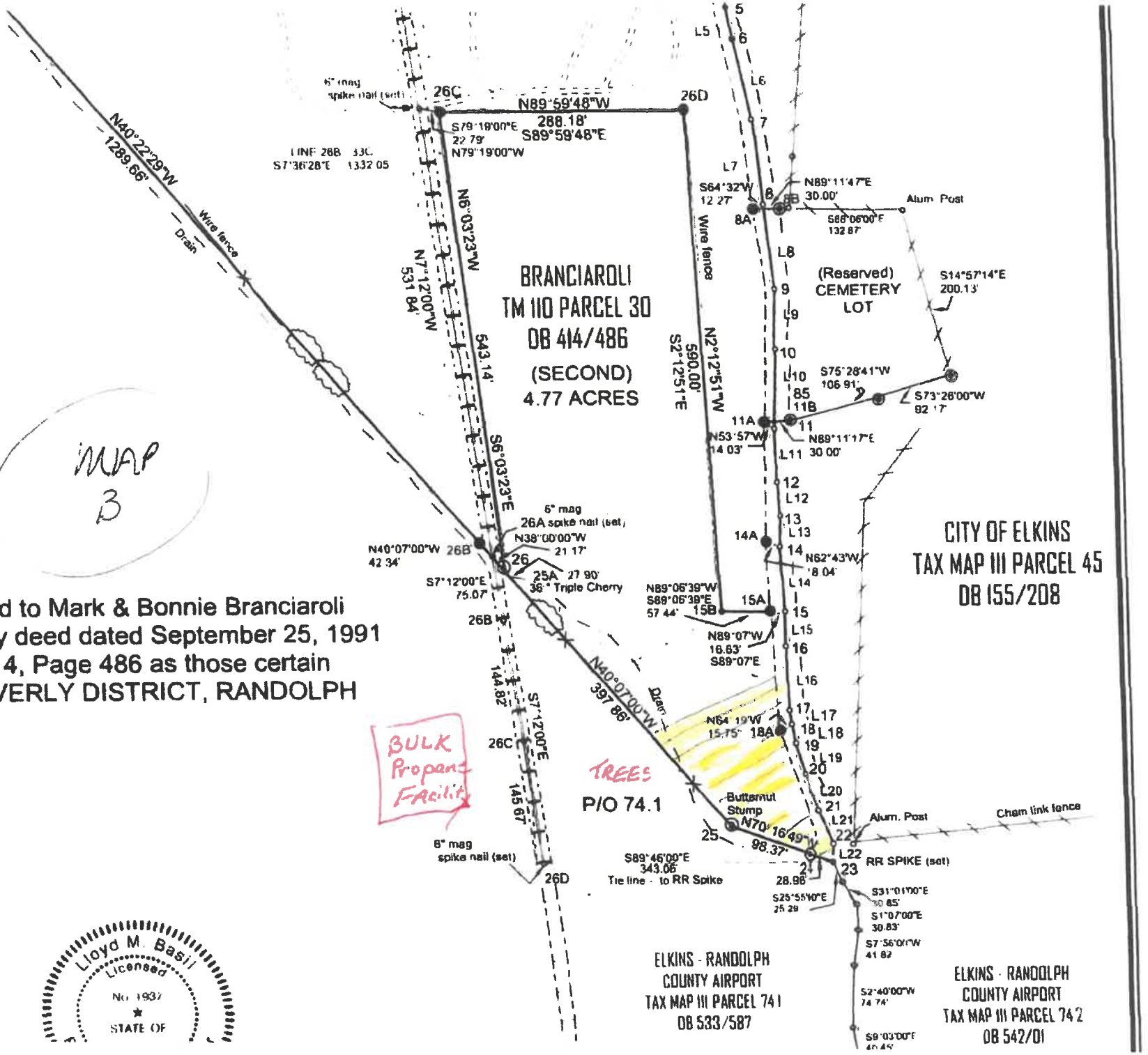
150'

150 feet

ar w/blue plastic cap
nl (fd)
and posts
II

MAP 3

land conveyed to Mark & Bonnie Branciaroli
arles Landis by deed dated September 25, 1991
Deed Book 414, Page 486 as those certain
situate in BEVERLY DISTRICT, RANDOLPH
T VIRGINIA.



ASIL
RVEYS
ELKINS WV 26241

Lloyd M. Basil
Licensed
No. 1937
STATE OF

residences in the neighborhood. Due to the woods line directly adjacent to the residence to the west, there are no direct lines of sight to Area No. 5 from the residence.

- Daniels Commercial Property: The buildings located on the Daniels' commercial property are located at the bottom of a hill adjacent to the Beverly Pike. The views to the east of the buildings are of a steep wooded hillside. The remaining views are of the developed areas along the Beverly Pike. Due to the wooded terrain and the approximately 150 feet of elevation change, there are no direct lines of sight between the commercial buildings and Area No. 5.

The trimming of the trees in Area No. 5 has no potential to significantly alter the visual character of the area. The views from the residences and commercial properties will remain unchanged.

Area No. 6 (**Appendix #10** Sheet No. 6.2)
Area No. 6 includes a trimming area of 0.82 acres. The area to be cleared is located in a mostly flat area along an access driveway extending from Arnold Hill Road to the Cupp property.

- Branciaroli Residence: The residence is located in a moderately wooded area adjacent to the airport on the western side of the approach end of Runway 5. The views to the north of the residence are of a flat open area currently being utilized as a campground. The remaining views from the residence are of a moderately wooded hillside.

- Carr Residence: The residence is located on a mostly cleared lot adjacent to Arnold Hill Road and situated on the eastern side of the airport's southernmost property boundary. The views from the residence to the east and south are of a wooded hillside. The views to the north and west are of open grassed hillside.

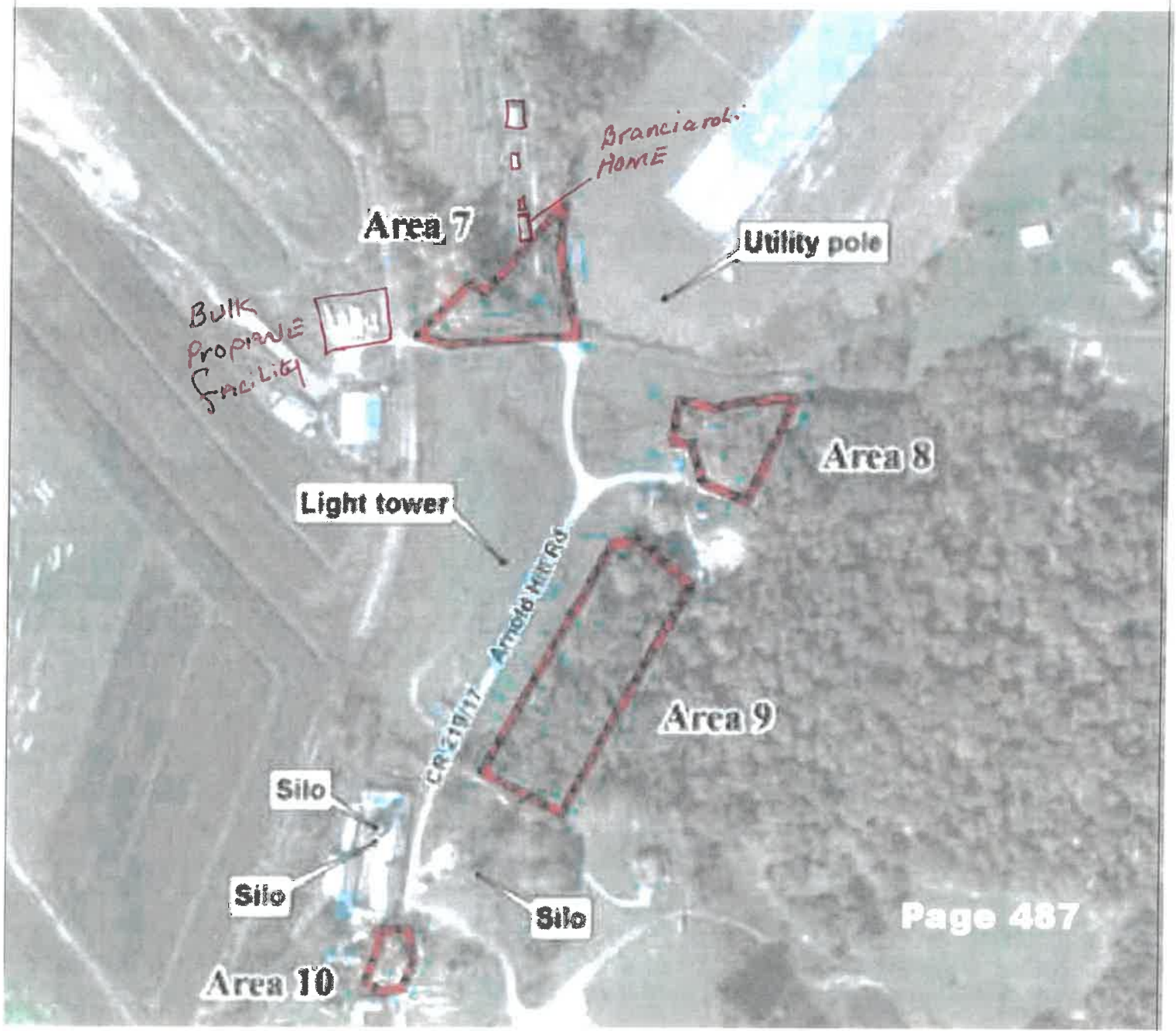
The trimming of the trees in Area No. 6 has little potential to alter the visual character of the properties. The views from the property will remain unchanged.

Area Nos. 7 and 8 (**Appendix #10** Sheet No. 6.2)
Area No. 7 includes a trimming area of 0.74 acres and Area No. 8 includes a clearing area of 2.56 acres. Area No. 7 is located in a generally flat area at the foot of the airport plateau. The area is located adjacent to Arnold Hill Road. Area No. 8 is located along a hillside which runs parallel to Arnold Hill Road as it extends to the south away from the approach end of Runway 5.

- Carr Residence: The residence is located on a mostly cleared lot adjacent to Arnold Hill Road and situated on the eastern side of the airport's southernmost property boundary. The views from the residence to the east and south are of a wooded hillside. The views to the north and west are of open grassed hillside.

- Cupp 2nd Residence: The residence is located on a small ridge which runs parallel to Arnold Hill Road. The residence is situated in a mostly open area with a small valley running in between the residence and the road. The views to the north of the residence are of a wooded area with the remaining views to the south being of open pasture areas.

The Proposed Action in Area No. 7 has little potential to alter the visual character of the properties. The views will largely remained unchanged as only tree trimming is proposed in Area No. 7. The



Enlarged MAP D

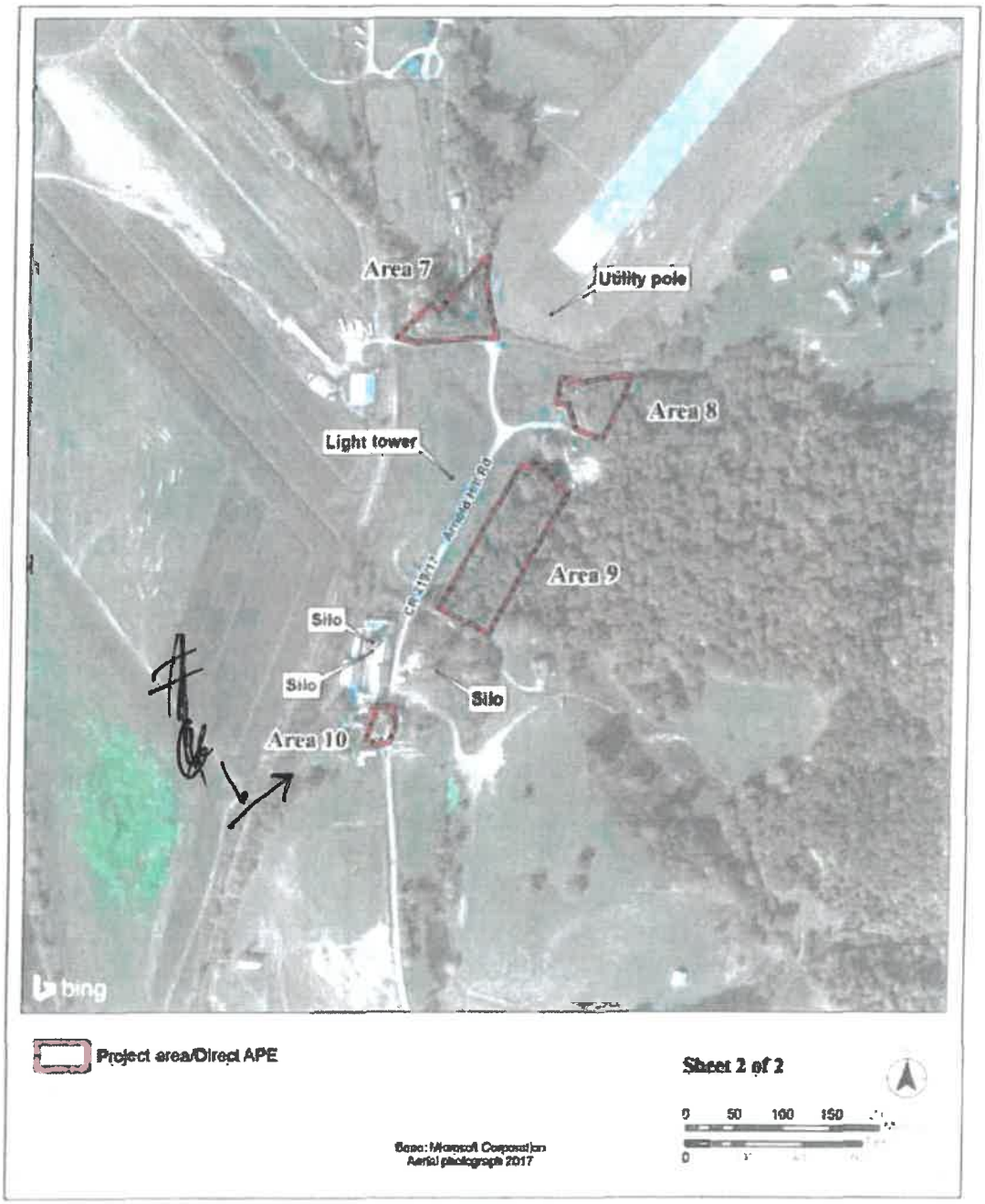


Figure 25. Aerial view of Areas 7–10 showing boundaries.

MAP D

487

Attachment E

Chapman Technical Group
a division of

June 20, 2019

[redacted]
Elkins, WV 26241

RE: Elkins-Randolph County Regional Airport
Obstruction Removal (Runway 5/23 Approaches)

Dear [redacted]

The Elkins-Randolph County Regional Airport Authority (ERCRAA) is in the process of undertaking an obstruction removal project for Runway 5/23. The proposed project will include clearing and trimming trees in those approach areas.

Completing the obstruction removal project will require a Federally Listed Plant Species Presence-Absence Survey, and must be approved by the US Fish and Wildlife Service. In order to satisfy the requirements of the Department, a plant survey must be completed where work will be performed on private property. The survey consists of walking the proposed obstruction removal areas and visually inspecting for the presence of rare and endangered plants. Project personnel will first request permission from property owners to enter their respective properties and perform the survey. Access to private property to perform such surveys is authorized by W.Va. Code § 54-1-3 and W.Va. Code § 54-1-3a. The ERCRAA has contracted with Chapman Technical Group to assist in obtaining permission for entry to your property to perform the survey.

Randolph County Courthouse records show the property indicated as Parcel 42.1 on Tax Map 110 and recorded in Deed Book 485 Page 517 is currently owned by [redacted]. The property is located along US-219 in Elkins, WV. If you are the current property owner, we respectfully request permission to access the property and perform the plant survey sometime from July 16 to July 24, 2019. After the survey has been completed, the ERCRAA and Chapman Technical Group will discuss the findings from the Presence-Absence Survey with you. Additionally, we also respectfully request permission to discuss with you an avigation easement on the property. Attached to this letter is a map of the property illustrating the approximate location of the proposed obstruction removal and associated plant survey.

Please review and, if acceptable, sign below, thereby allowing the ERCRAA to complete the necessary survey work. By signing below you are only permitting entry for surveying purposes and not agreeing to permit the removal or trimming of any trees.

Return to: **Chapman Technical Group**
c/o Melissa Defibaugh
43 E Main Street
Buckhannon, WV 26201

Please contact **Chapman Technical Group – Melissa Defibaugh at (304) 472-8914** or by email at **MDefibaugh@chaptech.com** at your earliest convenience to discuss any questions you may have regarding this matter

Sincerely,
Chapman Technical Group

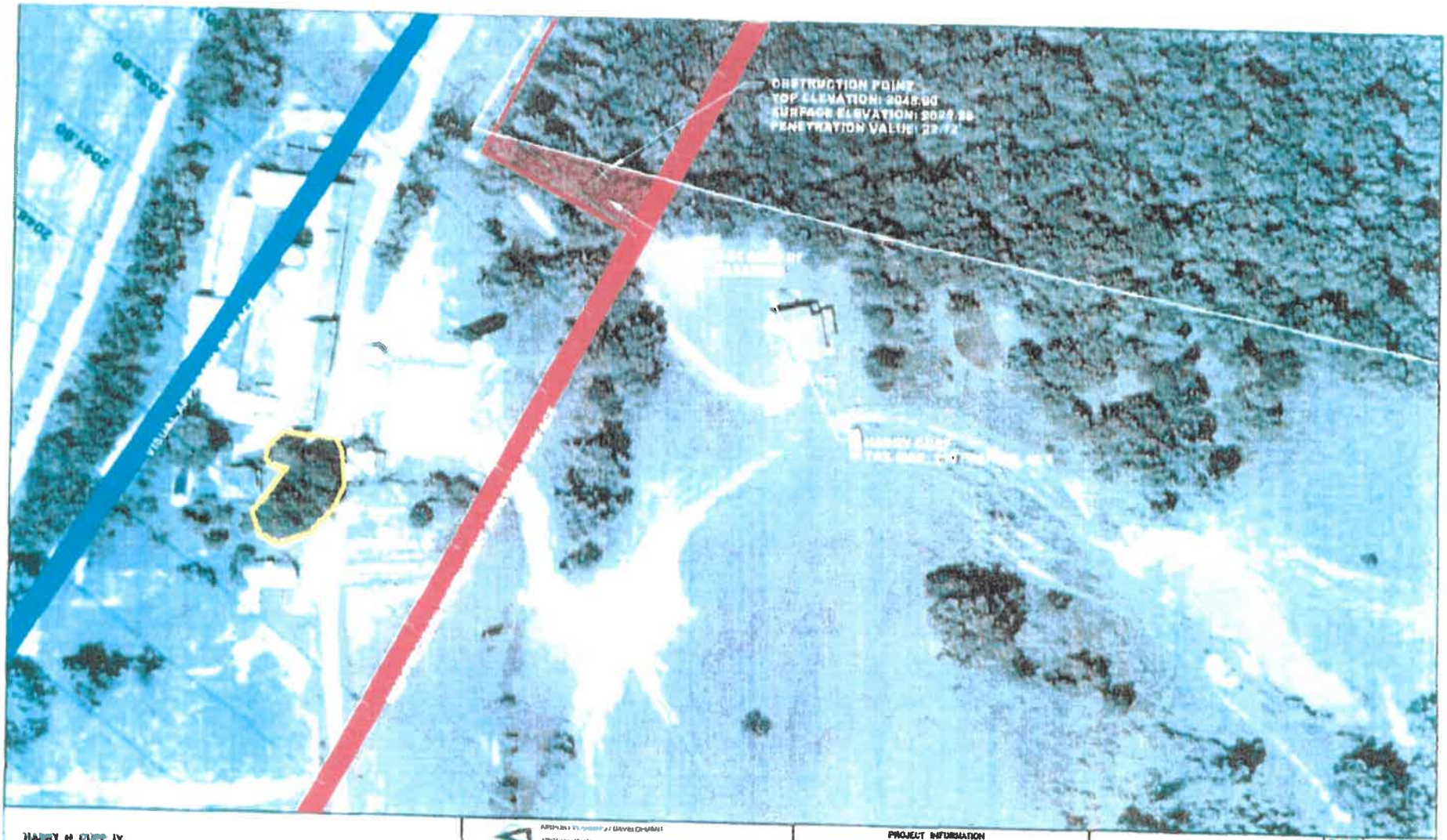
Melissa Defibaugh, P.E.
Project Manager

CC: File

Accepted by:

Date:

Parcel 110-42.1 Cupp



HARRY M CUPP IV
PARCEL 110-42.1

Chapman Technical Group

PROJECT INFORMATION

ELKINS RANDOLPH CO. REGIONAL AIRPORT AUTH.
ELKINS-RANDOLPH COUNTY REGIONAL AIRPORT
ELKINS, WEST VIRGINIA

OBSTRUCTION REMOVAL
PARCEL MAP

110-42.1 A

Attachment F

IN THE CIRCUIT COURT OF RANDOLPH COUNTY, WEST VIRGINIA

THE ELKINS-RANDOLPH COUNTY REGIONAL AIRPORT AUTHORITY

Petitioner,

v.

Civil Action No. _____
Judge: David H. Wilmoth

[redacted]

Respondents.

NOTICE OF HEARING

PLEASE TAKE NOTICE that the Petitioner will bring on for hearing its Petition for Declaratory and Injunctive Relief, on the 19th day of August, 2019, at 10:30 a.m., or as soon thereafter as counsel may be heard, before the Honorable David H. Wilmoth, Judge, in the Circuit Courtroom of the Randolph County Courthouse, Elkins, West Virginia, at which time you may be present and protect your interest if you so desire.

THE ELKINS-RANDOLPH COUNTY
REGIONAL AIRPORT AUTHORITY,
Petitioner,
By counsel,

Peter G. Zurbuch, Esq.
W.Va. State Bar ID No. 5765
Busch, Zurbuch & Thompson, PLLC
P.O. Box 1819
Elkins, WV 26241
Telephone: (304)636-3560
Fax: (304) 636-2290
Email: pzurbuch@bztlaw.com

Attachment F-2

BUSCH, ZURBUCH & THOMPSON, PLLC

ATTORNEYS AT LAW
P.O. BOX 1819
HIGH & COURT STREETS
ELKINS, WV 26241

Telephone (304) 636-3560
Facsimile (304) 636-2290

John E. Busch *(1938-2011)*
Peter G. Zurbuch
Jeffrey S. Zurbuch*
Bridgette R. Wilson
Robert C. Chenoweth
Jennifer L. Morgan

* *Also admitted in Virginia*

PARALEGALS:
Jacqueline M. Potts, CP
Lisa S. Severino, CP
Cheryl J. Given, ACP

www.bztlaw.com
sender's e-mail address: pzurbuch@bztlaw.com

August 6, 2019

[redacted]
Elkins, WV 26241

RE: Plant Survey / The Elkins -Randolph County Regional Airport Authority Obstruction Removal (Runway 5/23 Approaches)

Dear Mr. & Mrs. Epply:

I represent the Elkins-Randolph County Regional Airport Authority ("Airport Authority"). You were sent a letter dated June 20, 2019 by Chapman Technical Group, the engineering firm retained by the Airport Authority concerning its Obstruction Removal Project. The Obstruction Removal Project requires a Federally Listed Plant Species Presence/Absence Survey. The letter requested permission from the property owners in the approach area, including yourselves, to allow the individual conducting the plant survey to enter your property in order to visually inspect your property for rare and endangered plants. The Chapman Technical Group did not receive a letter authorizing the plant survey on your property. Thus, no survey was conducted on your property during the period of July 16-24. The Chapman Technical Group followed up by calling you to obtain permission for a follow-up survey which has tentatively been scheduled for mid-August. To date, no permission has been received from you for entrance for the plant survey.

A Petition for Injunctive Relief will be filed in the Circuit Court of Randolph County for entry to conduct the plant survey. The Petition will only include as parties those property owners who have not agreed to entry to permit the plant survey to be conducted on behalf of the Airport Authority as authorized by W.Va. Code § 54-1-3 and W.Va. Code § 54-1-3a. The scheduled hearing on the injunction is tentatively set for August 19, 2019 at 10:30 a.m. On behalf of the Airport Authority, I respectfully request that you reconsider allowing the plant survey contractor to enter your property to conduct the survey. If you agree to authorize entry onto your property for the plant survey, please contact me to advise me.

If you have any questions, please do not hesitate to call me, or if you are represented by an attorney, have him or her contact me with any questions. Thank you for your attention to this matter.

Sincerely,

Peter G. Zurbuch

PGZ: cj
cc: Melissa Defibaugh, P.E.
Mary Alice Ricottilli

Attachment G

d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement

e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.

f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.

g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. **Consistency with Local Plans.**

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. **Consideration of Local Interest.**

It has given fair consideration to the interest of communities in or near where the project may be located.

8. **Consultation with Users.**

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. **Public Hearings.**

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. **Metropolitan Planning Organization.**

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy

Attachment H

Procedures for Conducting Surveys for Federally Threatened or Endangered Plants in West Virginia

To assist in the review process for proposed actions that may affect federally listed threatened and endangered plants, the U.S. Fish and Wildlife Service (Service), West Virginia Field Office (WVFO) and the West Virginia Division of Natural Resources (WVDNR), have developed the following recommendations for conducting surveys for federally listed threatened and endangered plants, and for reporting of results.

Field botanists or biologists experienced in conducting surveys for rare or federally listed plant species, and who have had training or experience in locating and identifying the specific federally listed species that may be present within a project area, should conduct surveys. A qualified surveyor should be present in the field at all times during the investigation. The WVFO and WVDNR maintain a list of qualified surveyors. Surveyors not on this list may be qualified, but should provide a resume and supporting information sufficient to document their qualifications to the WVFO and WVDNR prior to conducting the survey. The required documentation and process for this is described in

The qualified surveyor should coordinate with the WVDNR and WVFO to discuss survey plans prior to conducting the survey. Surveys should cover the entire area affected by the proposed project including areas outside the immediate area of direct impact that may be affected by project activities, changes in plant species spacing, or the source (increased erosion or sedimentation, etc.).

Survey Periods

The acceptable survey periods for identifying threatened and endangered plants that occur in West Virginia are listed below. Surveys conducted during these periods by qualified surveyors should produce reliable results acceptable for environmental review. Surveys conducted outside of these periods are not sufficient to confirm that these species are absent within suitable habitat.

Negative surveys will be considered valid for two full survey periods from the year of the survey. For example, a survey conducted on July 31, 2012, would be valid through September 30, 2014. If work was to be conducted in a surveyed area after that date, additional surveys may be required.

Scientific Name	Common Name	Status	Survey Period
Arabis serotina	Shale barren rock cress	Endangered	August 1 – September 30
Isotria medeoloides	Small whorled pogonia	Threatened	May 1 – September 30
Pa. Imnium nodosum	Harperella	Endangered	July 1 – September 30*
Scirpus ancistrochaetus	Northeastern bulrush	Endangered	August 1 – September 30
Spiraea virginiana	Virginia spiraea	Threatened	June 1 – September 30
Trifolium stoloniferum	Running buffalo clover	Endangered	May 1 – September 30

* Surveys should be conducted during periods of low water

Sonia-Beardy organ Colony – only one Sedge

438. U01 2

264. U01 1

484

162-164

Trifolium nodosum

EXHIBIT tabbies D

Procedures for Reporting Results and Potential Detections of Federally Listed Species

If a threatened and endangered plant is found during a survey, the surveyor should do the following:

1. Demarcate and delineate each location with GPS coordinates. This means to 1) mark the population centroid with a point, and 2) to delineate the boundaries of each sub-population with a polygon.
2. Photo-document the species. This should include pictures sufficient to confirm the identification, and give context of habitat. The photo-documentation needed will vary from species to species, so surveyors should refer to keys in standard floristic manuals (such as *Flora of West Virginia* by P. D. Strausbaugh and Earl L. Core, *Flora of the Southern and Mid-Atlantic States* by Alan S. Weakley, and *The Flora of Virginia*
3. Describe habitat conditions in writing. A standard simple form for gathering rare plant element field data can be found at the West Virginia Division of Natural Resources website at
4. Describe the size of each population (i.e., number of rooted crowns, and aerial extent).
5. Contact the representatives from the WVDNR and WVFO listed below within 48 hours.
6. Coordinate with the project proponent, and State and Federal Wildlife agencies to determine if additional areas need surveyed and to address alternatives and avoidance measures.
7. Submit written reports of results, providing a description of the proposed project, GIS shape files, and printed maps of populations. Reports should also include the date that surveys were conducted, who conducted the surveys, and information regarding items 1-4 above.

Even if no listed species are found, still send a report of negative results to the biologists from the WVDNR and USFWS that are coordinating the environmental review of the project.

1. The report of negative results should include the name of the surveyor who conducted the work, a description of the proposed project, plus the dates the work was conducted. It should also include the methods used to conduct the survey, a delineation and map of the areas covered with GIS shape files, a description of the habitats present on the site, and the species encountered during the survey.
2. Provide photo documentation of each habitat-type within the survey area, and photo documentation of any species in the same genus as the target listed species that were encountered during the survey.

Digital and written reports should be sent to the contacts at WVDNR and WVFO below, as well as any biologists from those agencies coordinating the specific project.

Please contact:

WVDNR
Paul J. Harmon, Rare and Endangered Plant Botanist
Elkins Operation Center
P.O. Box 67
Elkins, WV 26241
(304) 637-0245

USFWS, WVFO
Barbara Douglas
Senior Endangered Species Biologist
90 Vance Drive
(304) 636-6586 x19
Elkins, WV 26241

Attachment H-2

9. The plant survey was scheduled to be conducted during the period of July 16-24, 2019.

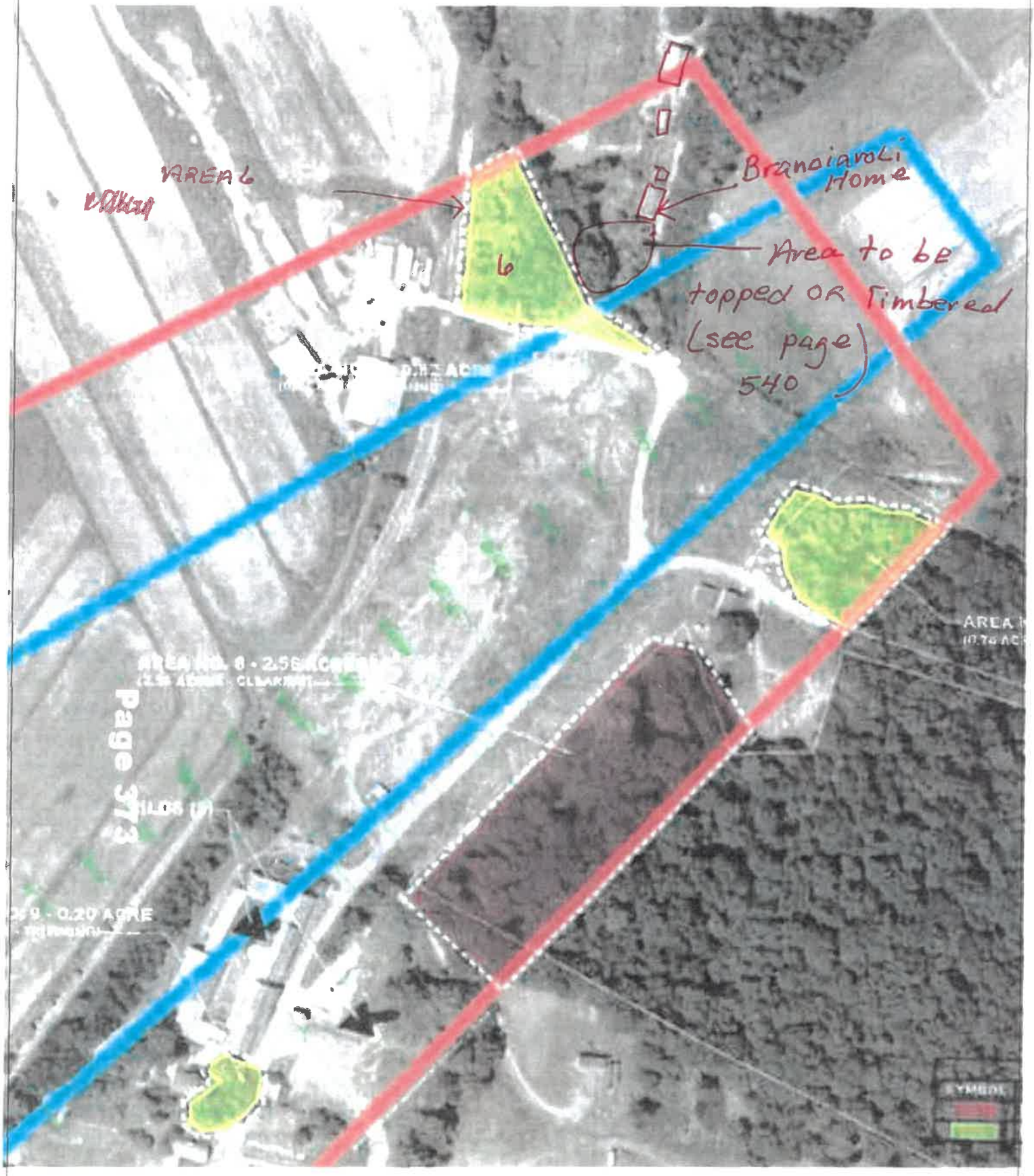
10. Chapman Engineering submitted letters dated June 20, 2019 to those property owners within the runway approach areas seeking permission to enter their land to conduct the plant survey. Approximately 17 property owners consented to having the plant survey conducted. The plant surveys for the 17 consenting property owners were completed within two days in July 2019. The Respondents herein did not provide consent for entry to their properties to conduct the plant survey in response to the letters requesting the same. (Letters attached as **Exhibit B**) Chapman Engineering followed up with the Respondents by telephone seeking permission for the plant survey to be done. Further, counsel submitted letters to the Respondent property owners dated August 6, 2019 requesting permission to enter their property and informing the property owners of this Injunction Petition and hearing date. (Letter attached as **Exhibit C**).

11. The plant survey may only be conducted between May 1 and September 30. Thus, time is of the essence to complete the plant survey for the Environmental Assessment. (Procedure for plant survey attached as **Exhibit D**) (Affidavit of Melissa Defibaugh attached as **Exhibit E**).

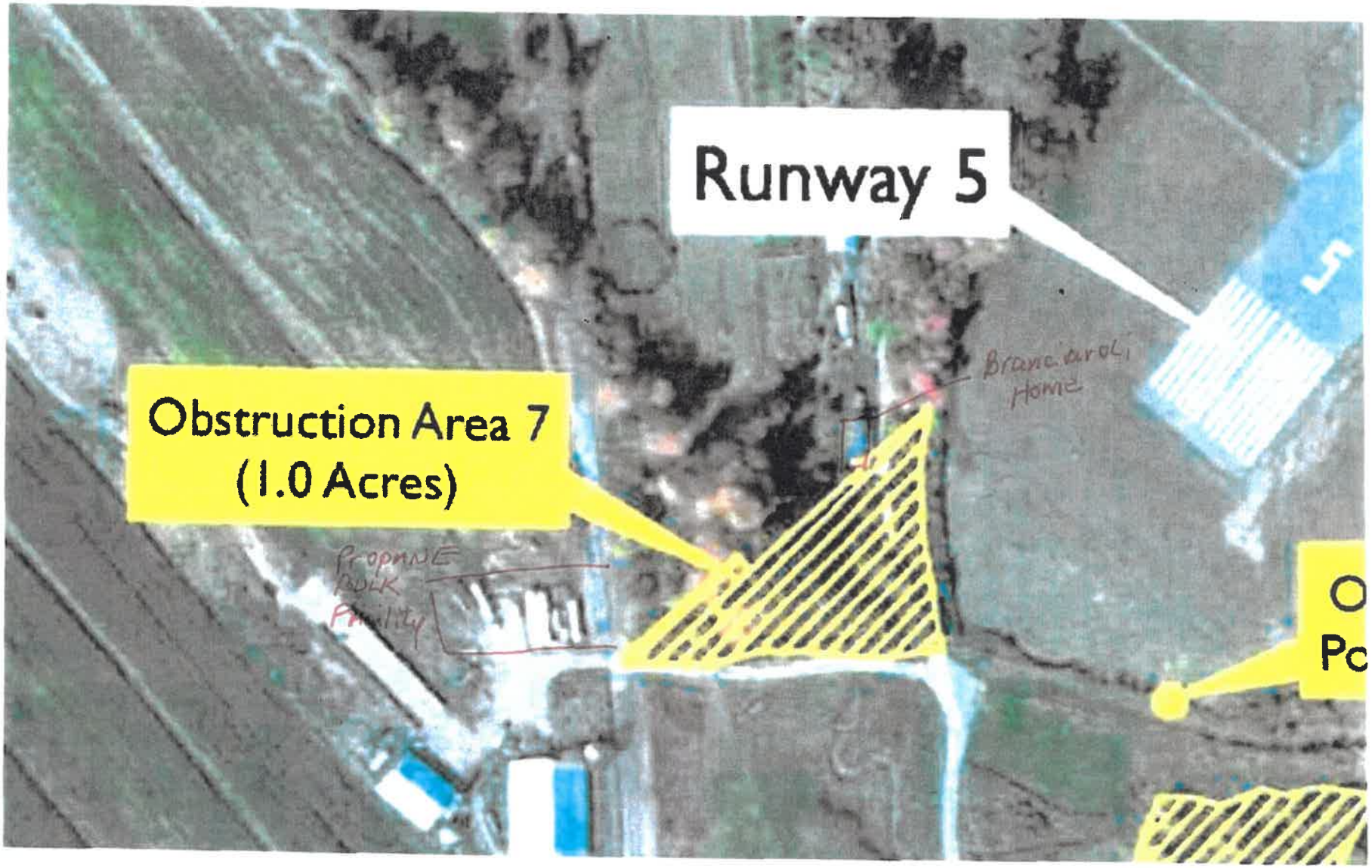
12. The Airport Authority is statutorily vested with the power of eminent domain:

> Whenever it shall be deemed necessary by an authority, in connection with the exercise of its powers herein conferred, to take or acquire any lands, structures or buildings or other rights, either in fee or as easements, for the purposes herein set forth, the authority may purchase the same directly or through its agents from the owner or owners thereof, or failing to agree with the owner or owners thereof, the authority may exercise the power of eminent domain in the manner provided for

PLANT SURVEY MAP Attachment I



Attachment J



Page 540



Figure 23. View of Area 6, from knoll, looking south toward Area 5.

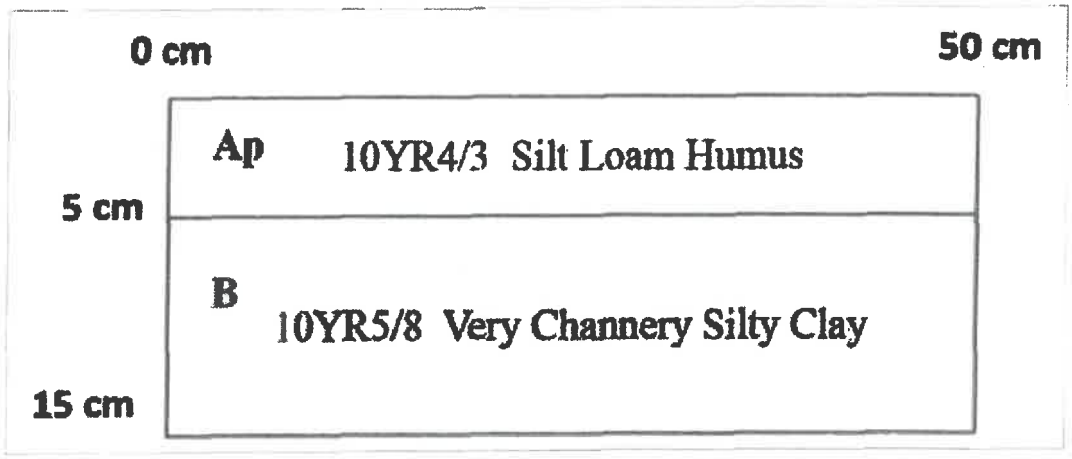


Figure 24. Schematic soil profile, Area 6.

Area 7: Area 7 is located south of the Elkins-Randolph Airport and west of a small cull-du-sac associated with Arnold Hill Road. This area was visually inspected from the roadway as access was limited due to property owner concerns. The area consists of a small wooded lot, encompassing 0.40 hectare (1.00 acre), with a small unnamed stream running through it (Figures

5 and 26). The area appears somewhat altered and landscaped; note the yucca plant in the lower right of Figure 25 just below a No Trespassing Sign. No cultural materials were observed. If intact cultural materials are encountered as a result of tree removal, it is recommended that work stop in this area and the WVSHPO be notified.

Area 8: Area 8 is immediately adjacent to Arnold Hill Road, on the north side of the road and is a small area encompassing 0.29 hectare (0.74 acre). Due to landowner concerns, this area received minimal direct investigation. A small unnamed stream traverses east-west through this area. A portion of the area is flat and was waterlogged at the time of survey (Figures 25, 27, and 28). A STP revealed soils that are frequently flooded (mottled and hydric); and the probe immediately filled with water. South of the stream, the area consists of modern debris, car parts, and road berm disturbance. No cultural materials were encountered or observed. Due to the hydric soils in this area, there is little potential for archaeological resources to be documented. However, if cultural materials, other than modern debris are encountered within the drier southern portion of the area, work should immediately stop and WVSHPO be notified.

Area 9: Area 9 is a scrubby ravine along Arnold Hill Road, running parallel to the east side of the road, encompassing 1.03 hectares (2.56 acres). The area consisted of a steep road side slope and a ravine paralleling a small unnamed stream (Figures 25, 29 and 30). The area was visually inspected and photo documented due to landowner concerns. No cultural materials were encountered. The presence of road grading and landform modification to direct stream flow point to a low potential for archaeological resources in this area. However, if cultural materials are documented during tree trimming and/or removal, work stop and the WVSHPO be consulted.

Area 10: Area 10 is a single pine tree slated for removal from a 0.08 hectare (0.20 acre) plot (Figure 25). The tree is in the front yard of a house. The soils around the house are visually disturbed from modern activity related to the current occupation. No formal testing was conducted in Area 10 due to landowner concerns. No cultural materials were observed and the area offers a low probability of intact archaeological resources. However, if cultural materials are documented during tree trimming and/or removal, work stop and the WVSHPO be consulted.

Attachment "L"

Elkins-Randolph County Regional Airport Authority

Rt.4 Box 271-1
Elkins WV 26241
304-636-2726

Serving the West Virginia Highlands

July 12, 2016

Mr. Kurt Blankenship
Federal Aviation Administration
Main Terminal Building, Room 101
176 Airport Circle
Beaver, West Virginia 25813-9350

Re: Elkins-Randolph County Regional Airport
Recommendation of Cost Reasonableness

Dear Mr. Blankenship.

The Elkins-Randolph County Regional Airport Authority has completed an analysis on the costs associated with the project included in the Application for Federal Assistance for FAA AIP Project No. 3-54-0007-023-2016. The Airport Authority recommends the costs associated with the project be accepted as reasonable based on the following factors:

1. The professional consultant fees were analyzed by the utilization of an Independent Fee Estimate (IFE) The Airport Authority contracted NGC Corp. to provide an Independent Fee Estimate for the project. A copy of the documentation provided by NGC Corp. is attached. A summary comparing the IFE results with the professional service fees provided by our consultant, Chapman Technical Group. is as follows:

Phase	Consultant	IFE	Difference
Study and Report Phase Services	$ 84,475.00	$ 104,000.00	- $ 19,525.00
Environmental Assessment Data Collection Services	$ 48,500.00	$ 44,000.00	+ $ 4,500.00
Surveying Services	$ 19,048.00	$ 14,400.00	+ $ 4,648.00
Total	**$ 152,023.00**	**$ 162,400.00**	**- $ 10,377.00**

The IFE provided by NGC Corp. was utilized to review and negotiate the professional consulting fees submitted by Chapman Technical Group. The Airport Authority feels the professional service fees are generally within an acceptable range of the IFE and should be accepted as reasonable.

RANDOLPH COUNTY AIRPORT AUTHORITY
Obstruction Removal (Runway 5/23 Approaches
Phase I – Environmental Assessment
Independent Fee Estimate Summary

Introduction

The purpose of this effort is the provide an independent fee estimate as required under the guidance as published in FAA Advisory Circular 5100-14D, Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects. The following information will include a brief written description along with a final conclusion. Additional documentation attached separately includes a list of comments and assumptions for each scope of work line item and a detailed fee breakdown.

Scope of Work

A review of the scope of work indicates that this project includes the environmental review phase for the purpose of identifying potential impacts and mitigation for items impacting the environment.

Conclusion

While the actual construction phase of a project may seem very straightforward, getting the environmental process approved can be quite challenging. The key to success on these kinds of projects may be to ensure that the method of achieving the final goal is the best way to go. There may be other creative ways to achieve the same outcome that cause little to no impacts to the environment impact. Nonetheless, the path for this project has been determined and now the process must begin. Unfortunately, these kinds of projects vary in scope and size and it can be quite difficult to find similar projects to compare with. So the best that we can do in this situation is to attempt to put together a zero-based fee proposal.

Please note that the size of the firm and its corporate structure can have a bearing on costs as well. While larger firms may have varying tiers of engineer and support personnel levels, smaller firms will have fewer classifications. Larger firms may also have directors and vice presidents that also bill a small portion of their time to a project while others will not.

One of the biggest variables in this project will be the cooperation of the thirty property owners. It is difficult to predict how they will react and once one becomes upset, others will often times feed off of the one and then you have an unpleasant process. With all of the unknowns and variables that are difficult to predict at this early stage, you may wish to consider making the entire contract an hourly rate not to exceed so that if potential savings are possible, you can take advantage of those savings.

In our opinion, the fee proposal should be in the range of $160,000 to $170,000 but could be higher depending upon the firm's overhead rates and contracting methods.

If you should have any questions pertaining to the information contained in this letter, please feel free to contact Dick Chaney or I at (304) 636-2726.

Sincerely,

Nils Heinke, President
Elkins-Randolph County Regional Airport Authority

Attachment M

As a preliminary review of candidate, threatened or endangered species listed in or near the project, the proposed project site was analyzed using the U.S. Fish and Wildlife Service's (USFWS) IPaC database. An IPaC Trust Resource Report was prepared for the proposed project site and it was determined that the project area may potentially contain the following threatened or endangered plant or mammals:

Flowering Plants
- Running Buffalo Clover
- Small Whorled Pogonia

Mammals
- Indiana Bat
- Northern Long-eared Bat
- Virginia Big-eared Bat

Third Rock Consultants was contracted to perform habitat assessments in the obstruction removal areas to determine the presence of suitable habitat for the threatened or endangered species.

The USFWS has developed guidance which indicates projects which impact less than 17 acres are generally not likely to produce a negative impact on the above listed bat species. Based on guidance received from the USFWS, an assessment of the 28.5 acres, which exceeds the USFWS established impact threshold, could operate under two conditions, 1) listed bat species are assumed to be present or 2) conduct a presence/absence survey to verify if any bats are within the project areas.

The Airport Authority contracted Skybax Ecological Services to conduct a bat mist net presence/absence survey to determine if any bats were present within the project areas. No threatened or endangered species were captured.

The USFWS provided guidance which indicated that there is a known population of Small Whorled Pogonia within 2.5 miles of the project area, as well as modeled suitable habitat within the project area. Based on guidance received from the USFWS, an assessment of the proposed project areas was required to determine whether any rare plants (specifically Running Buffalo Clover and Small Whorled Pogonia) were present in the proposed project areas. USFWS coordination associated with this recommendation is included in **Appendix #7**.

The Airport Authority contracted Skybax Ecological Services to conduct a rare plant survey of the project areas. Neither Running Buffalo Clover nor Small Whorled Pogonia were present within the project areas.

Copies of the technical memorandums prepared by Third Rock Consultants and final correspondence with the USFWS, including the survey reports from Skybax Ecological Services, and the IPaC Trust Resource Report are attached as **Appendix #7**.

(2) Will the action have any long-term or permanent loss of unlisted plants or wildlife species?

The Proposed Action consists of the removal of trees which inherently has the potential for the loss of habitat within the project areas for wildlife species which would utilize the trees as habitat. A higher potential exists for the displacement of wildlife species than the outright loss of wildlife

Attachment N

Table 1.1: Based Aircraft Forecast

Year	Single-Engine	Multi-Engine	Turboprop	Jet	Helicopter	Total
2011	21	3	0	0	0	24
2019 (Actual)	22	3	1	1	0	27
2021	22	3	0	0	1	26
2031	22	3	0	0	2	27

Table 1.2: Summary of Aviation Forecasts

Item	2011	2019 (Actual)	2021	2031
Itinerant Operations	1,945	2,615	2,145	2,228
Local Operations	3,950	5,906	4,355	4,522
Total Operations	**5,895**	**8,506**	**6,500**	**6,750**

Runway Length Requirements

FAA Advisory Circular 150/5325-4B sets forth the design criteria to be used when determining the length of runway required for each particular airport. The determination of required runway length takes into consideration such factors as the airport's design aircraft, altitude, temperature, wind conditions, the aircraft's useful load (the load able to be carried by an aircraft in addition to its own weight) and the intended range of the aircraft. When determining the required runway length, a critical determination must be made. This distinction is between what constitutes large and small aircraft. This Advisory Circular defines large aircraft as an aircraft with a maximum certificated takeoff weight of greater than 12,500 pounds. A small aircraft is defined as an aircraft with a maximum certificated takeoff weight of less than 12,500 pounds.

The airport's Master Plan contemplates which classification most appropriately defines the aircraft fleet which utilizes the Elkins-Randolph County Regional Airport. This report designates the Beech King Air 200 as the airport's critical design aircraft. The FAA Advisory Circular designates that an airport's design aircraft is the aircraft with the most demanding characteristics that regularly uses the runway. The FAA defines regular use as a minimum of 500 annual operations. The Beech King Air 200 belongs to a family of aircraft characterized as small airplanes having 10 or more passenger seats. Using Figure 2-2 of FAA Advisory Circular 150/5325-4B, included as **Appendix #2**, the recommended runway length for Runway 5-23 is 4,400 feet.

In instances where the total length of paved runway is not available for operations, the airport operator must declare the distances available for operations. The FAA defines four main categories of declared distances: Takeoff Run Available (TORA), Takeoff Distance Available (TODA), Accelerate-Stop Distance Available (ASDA) and Landing Distance Available (LDA). FAA Advisory Circular 150/5300-13A defines these distances as:

- Takeoff Run Available (TORA) – the runway length declared available and suitable for the ground run of an aircraft taking off;
- Takeoff Distance Available (TODA) – the TORA plus the length of any remaining runway or clearway beyond the far end of the TORA; the full length of the TODA may need to be reduced because of obstacles in the departure area;

Attachment N-2

ATADS : Airport Operations : Standard Report

From 01/2007 To 01/2020

Calendar Year	Facility	State	Class	DDSO Service Area	Itinerant					Local	
					Air Carrier	Air Taxi	General Aviation	Military	Total	Civil	Military
2019	PIT	PA	Combined TRACON & Tower with Radar	CE	101,735	34,017	7,096	4,922	147,770	22	327

Attachment O

FAA REGISTRY

State / County Inquiry Results

State Entered: WEST VIRGINIA
County Entered: RANDOLPH

Showing 1 - 24 of 24 (Page 1 of 1)

N-Number	Serial Number	Name Address	Manufacture Name Manufacturer Year	Model	Certificate Issue Date	Aircraft Weight	Type Reg
1413E	7AC-4976	HEINKE NILS A 39 PINEWOOD DR ELKINS, WV 26241-9556	AERONCA 1946	7BCM	02/23/2019	Up to 12,499	Individual
15WV	667	ALMOST HEAVEN WOODCRAFT LLC PO BOX 166 BEVERLY, WV 26253-0166	CHAMPION 1969	7ECA	10/07/2008	Up to 12,499	LLC
175E	17251210	JUDY RICHARD L 347 MT VERNON RD BEVERLY, WV 26253-9038	CESSNA 1964	172E	05/07/1986	Up to 12,499	Individual
181AV	287990269	ELKINS PILOTS CLUB C/O ELKINS RANDOLPH CO AIRPORT 400 AIRPORT RD ELKINS, WV 26241-9792	PIPER 1979	PA-28-181	05/23/2005	Up to 12,499	Corporation
1824M	33701424	HEINKE NILS A 39 PINEWOOD DR ELKINS, WV 26241-9556	CESSNA 1971	337F	12/11/2006	Up to 12,499	Individual
2388C	30688	RICOTTILLI STANLEY L	CESSNA 1953	180	07/13/2017	Up to 12,499	Individual

		6555 SENECA TRL MILL CREEK, WV 26280-5030					
35MC	CH-177	WALLACE JAMES W PO BOX 1426 ELKINS, WV 26241-1426	BEECH 1955	C-50	08/29/2000	Up to 12,499	Individual
432	TC-1649	LAZY J AEROPLANES LLC 71 LAZY J LN BEVERLY, WV 26253-8979	BEECH 1974	95-B55 (T42A)	04/13/2006	Up to 12,499	LLC
432E	18259591	LAZY J AEROPLANES LLC 71 LAZY J LN BEVERLY, WV 26253-8979	CESSNA 1969	182M	12/11/2015	Up to 12,499	LLC
432Y	CC11-00266	LAZY J AEROPLANES LLC 71 LAZY J LN BEVERLY, WV 26253-8979	CUBCRAFTERS INC 2013	CC11-160	05/25/2017	Up to 12,499	LLC
44783	32-7540004	FAMILY EYE CARE CENTER LLC 1500 HARRISON AVE ELKINS, WV 26241-3492	PIPER 1974	PA-32-300	04/11/2011	Up to 12,499	LLC
45WV	06160062	ALMOST HEAVEN WOODCRAFT LLC PO BOX 166 BEVERLY, WV 26253-0166	MICHAEL B PIZZINO	RANS S20	09/24/2019	Up to 12,499	LLC
50896	15069625	BANKHEAD DAVID B 1196 SENECA TRL MONTROSE, WV 26283-8800	CESSNA 1968	150J	01/18/1995	Up to 12,499	Individual
5604W	28-741	WALLACE JAMES W PO BOX 1426	PIPER 1962	PA-28-150	03/05/1998	Up to 12,499	Individual

		ELKINS, WV 26241-1426					
6025B	34025	BETTER AIR SERVICE LLC PO BOX 100 DAILEY, WV 26259-0100	CESSNA 1956	182A	04/07/2011	Up to 12,499	LLC
672RK	ER-01-10518	KELLY SURVEYING PLLC PO BOX 294 DAILEY, WV 26259-0294	SENSEFLY	EBEE RTK	05/10/2016	UAV up to 55	Corporation
672TK	P76DCF19017276	KELLY SURVEYING PLLC PO BOX 254 DAILEY, WV 26259-0254	DJI	PHANTOM 3 PROFESSION	09/02/2016	UAV up to 55	Corporation
672YK	P76DCE18043572	KELLY SURVEYING PLLC PO BOX 254 DAILEY, WV 26259-0254	DJI	PHANTOM 3 PROFESSION	03/29/2016	UAV up to 55	Corporation
67633	13965	WALLACE JAMES W PO BOX 1426 ELKINS, WV 26241-1426	PIPER	J3C-65	08/15/2017	Up to 12,499	Individual
715FP	242	SPONAUGLE MATTHEW R 79 GOLDBERG DR ELKINS, WV 26241-1288	FPNA LLC 2008	A-22 VALOR	08/04/2014	Up to 12,499	Individual
7921M	D-8251	GOSNELL DOUGLAS PO BOX 2962 ELKINS, WV 26241-2962	BEECH 1966	V35	06/11/2002	Up to 12,499	Individual
8173B	29973	BETTER AIR SERVICE LLC PO BOX 100 DAILEY, WV 26259-0100	CESSNA 1957	172	09/17/2018	Up to 12,499	LLC
87876	18-3595	PLAUGER GEORGE V JR 9224 GEORGETOWN RD	PIPER 1987	L-21B	09/04/1992	Up to 12,499	Individual

		BEVERLY, WV 26253-4639					
92618	16985	DILLON PERRY E 275 MT VERNON RD BEVERLY, WV 26253-9812	PIPER 1946	J3C-65	10/02/1987	Up to 12,499	Individual

Type 1 Individual	Type 2 Partnership	Type 3 Corporation	Type 4 Co-Owner	Type 5 Government	Type 8 & 9 Other	Subtotal	Total
12	0	4	0	0	8	24	24

Showing 1 - 24 of 24 (Page 1 of 1)

Attachment 1

U.S. Department
of Transportation
Federal Aviation
Administration

Advisory Circular

Subject: Non-Towered Airport Flight Operations

Date: 3/13/18 **AC No:** 90-66B
Initiated by: AFS-800 **Change:**

12.1.4 Helicopters operating in the traffic pattern when landing on the runway may fly a pattern similar to the fixed-wing aircraft traffic pattern but at a lower altitude (500 feet AGL) and closer to the runway. This runway pattern may be on the opposite side of the runway from fixed-wing traffic only when airspeed requires it or for practice power-off landings (autorotation) and if local policy permits. Landings not on the runway must avoid the flow of fixed-wing traffic.

Attachment Q

Table 1.4: Runway Instrument Approach Procedure Minimums

Approach Procedure	Runway 5		Runway 23	
	Ceiling (ft.)	Visibility (miles)	Ceiling (ft.)	Visibility (miles)
LNAV MDA*	3,040	1-1/2	3,160	1-1/2
Circling	3,140	1-1/2	3,160	1-1/2

Note:
LNAV MDA – Lateral Navigation Minimum Descent Altitude

Based on the instrument approach procedures available to Runways 5 and 23, the approach surfaces for the ends of the runway would have the dimensions set forth in Table 3-2 included in **Appendix #3** from Advisory Circular 150/5300-13A for Category 4: *Approach end of runways expected to support instrument night operations, serving approach Category A and B aircraft only.* The other surface of concern in this assessment is the basic visual approach surface. This surface would be defined as Category 3: *Approach end of runways expected to serve large airplanes (visual day/night); or instrument minimums greater than or equal to 1 statute mile (day only).* This is the most basic approach surface available to the airport.

2. Project Description (List and clearly describe **ALL** components of project proposal including all connected actions). **Attach a map or drawing of the area with the location(s) of the proposed action(s) identified:**

The Proposed Action consists of removing obstructions which are currently penetrating the approach surfaces of Runway 5-23 at the Elkins-Randolph County Regional Airport. The project will consist of the following actions in the approach surfaces:

Runway 5 Approach Surface
- Clearing 2.56 acres of trees;
- Trimming 1.76 acres of trees;
- Removal of two obstruction light structures; and
- Lowering the top elevation of three silos

Runway 23 Approach Surface
- Clearing 13.58 acres of trees; and
- Trimming 10.61 acres of trees

The locations of the project components are depicted in the site plans included in **Appendix #5** on Sheets No. 5.3 and 5.4.

Tree Clearing
The trees which are designated to be removed in the project areas will be cut at or near the existing ground surface. All trees will become property of the Contractor and will be removed from the project site. It is anticipated the bulk of the removed trees will be marketable and will be further processed by the Contractor. The remaining trees which are not deemed to be marketable will be removed from the site and disposed of at an off-site location. The Contractor will also be required to remove all downed timber and limbs. All limbs and smaller slash/waste will be disposed of by chipping. All

chips generated will be placed directly into a receiving truck, removed from the site and properly disposed.

Prior to the start of the construction, the Contractor will be required to provide the Airport Authority with documentation which formally designates all disposal area locations and methods of disposal (burning, chipping, etc.). In consideration of the significant forestry industry present in the area, an off-site waste location for the debris should be readily available. All documentation received will be submitted to the FAA for review and acceptance prior to the start of construction.

Once the trees are removed, the Contractor will be required to remove the remaining stumps through a grinding process. All stumps shall be ground to a point a minimum of 4" below the existing ground surface. Upon completion of the grinding process, the stumps shall be covered with a minimum of 4" of suitable topsoil material. In order to minimize ground disturbance, the Contractor will not be permitted to remove the stumps through grading with dozers or graders.

Tree Trimming

Trees which are located in areas designated to be trimmed will be trimmed down to the elevations indicated on the construction plans. The trimming area limits were developed based on an assumed removal height of approximately 10 feet. All limbs and slash/waste will be disposed of by chipping. All chips generated will be placed directly into a receiving truck, removed from the site and properly disposed. The Contractor will be required to provide an ISA Certified Arborist on-site during all tree trimming operations.

Obstruction Light Structure Removal

The obstruction light structure removal will consist of removing a wooden utility pole which was part of an antiquated obstruction lighting system and an aluminum frangible air mast which was located adjacent to a house which was demolished in 2011. The wooden utility pole will be removed a maximum of 12 inches from the existing ground surface and left on site to decompose. The aluminum frangible air mast will be disassembled and the individual components recycled or properly disposed of in the local waste collection system.

Silo Top Elevation Lowering

The Harvestore silos will be lowered by removing existing section pieces of the structure at ground elevation and lowering the silo to an acceptable height. The removed sections will become property of the Contractor and will be required to be properly disposed of off-site by metal scrap recycling or re-used at the Contractor's discretion.

The top dome section will be hoisted off the concrete silo structure and the appropriate number of structure sections will be removed. Once the target height has been achieved, the top dome section will be re-installed. The removed sections will become property of the Contractor and will be required to be properly disposed of off-site.

Site Reclamation

Upon completion of obstruction removal activities, all disturbed areas will be reclaimed through the following procedures:

- All ruts and depressions created by construction activity will be filled with suitable topsoil material or otherwise smoothed;

- All slash generated from the tree removal effort will be collected, removed from the site and properly disposed of at the pre-approved off-site disposal location; and

- All disturbed areas will be seeded and mulched in accordance with FAA specifications in order to establish adequate vegetative cover.

3. Project Purpose and Need:

The primary purpose of the Proposed Action is to remove obstructions which are located within the 20:1 approach surfaces of Runway 5-23 at the Elkins-Randolph County Regional Airport in order to improve the level of operational safety afforded to aircraft utilizing the facility. The purpose of the easement acquisition is to facilitate the removal of the offending obstructions as well as to increase the Airport Authority's future control over the approaches to Runways 5 and 23. It is anticipated the project will be completed by April 2022.

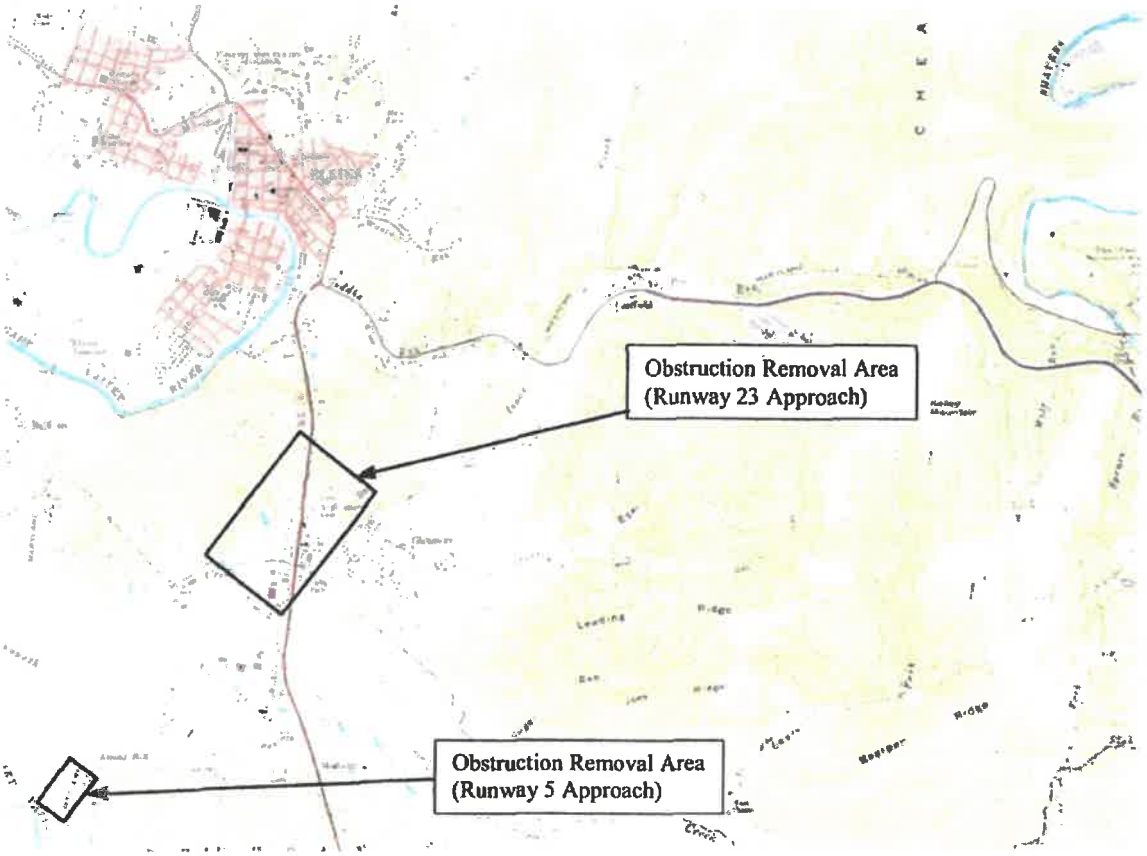
The primary need of the Proposed Action is to bring the airport into compliance with current design standards by removing obstacles which obstruct the airport's airspace while maintaining the existing length of usable runway.

4. Describe the affected environment (existing conditions) and land use in the vicinity of project:

Geographic Location

The Elkins-Randolph County Regional Airport is located approximately 2 miles south of the City of Elkins, West Virginia. The airport is accessed via Elkins-Randolph County Airport Road (County Route 219/27) which connects to Beverly Pike (US-219) via Country Club Road (County Route 219/11) to the east of the airport. The airport is approximately located at 38° 53' 11.67" latitude and 79° 51' 25.20" longitude. The airport's location in relation to the City of Elkins, West Virginia is shown in Figure 4.1 on the following page.

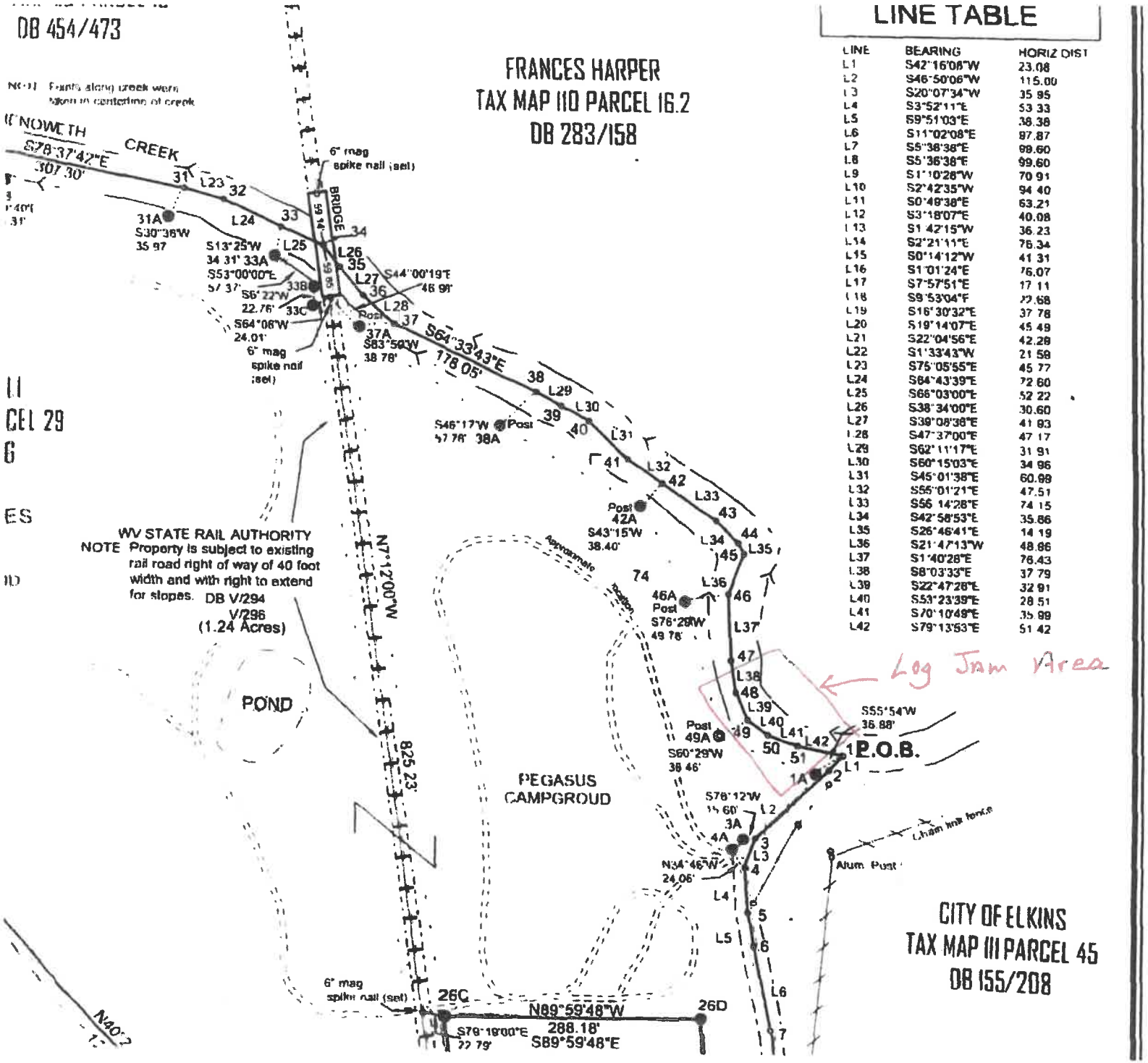
Figure 4.1: Project Location



The proposed action has 9 tree removal and trimming areas which are generally defined in Table 4.1 below. The areas are depicted in the site plans contained in **Appendix #5** on Sheets No. 5.3 and 5.4.

Table 4.1: Obstruction Removal Area Locations

Area No.	Acreage	Clearing/ Trimming	Runway Approach	Latitude	Longitude
1	0.83	0.83 Acre Clearing	Runway 23	38° 54' 02"	79° 50' 55"
2	10.11	5.68 Acres Clearing 4.43 Acres Trimming	Runway 23	38° 54' 04"	79° 50' 48"
3	4.05	1.09 Acres Clearing 2.96 Acres Trimming	Runway 23	38° 54' 11"	79° 50' 45"
4	8.83	5.98 Acres Clearing 2.85 Acres Trimming	Runway 23	38° 54' 15"	79° 50' 32"
5	0.37	0.37 Acres Trimming	Runway 23	38° 54' 25"	79° 50' 29"
6	0.82	0.82 Acres Trimming	Runway 5	38° 53' 05"	79° 51' 53"
7	0.74	0.74 Acres Trimming	Runway 5	38° 53' 01"	79° 51' 45"
8	2.56	2.56 Acres Clearing	Runway 5	38° 52' 56"	79° 51' 49"
9	0.20	0.20 Acres Trimming	Runway 5	38° 52' 51"	79° 51' 54"

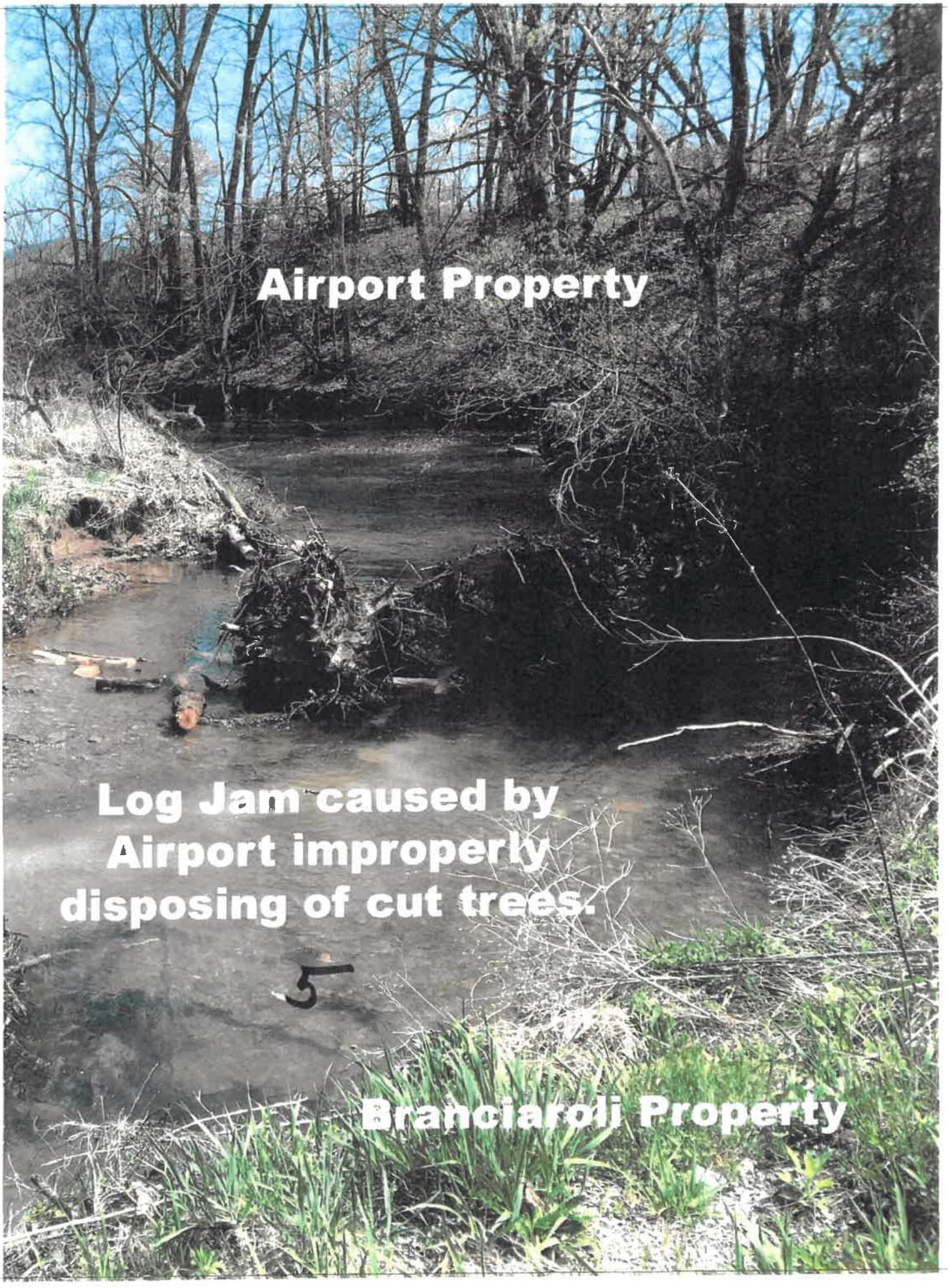

DB 454/473
FRANCES HARPER
TAX MAP 110 PARCEL 16.2
DB 283/158
LINE TABLE
LINE BEARING HORIZ DIST
L1 S42°16'08"W 23.08
L2 S46°50'06"W 115.00
L3 S20°07'34"W 35.95
L4 S3°52'11"E 53.33
L5 S9°51'03"E 38.38
L6 S11°02'08"E 97.87
L7 S5°36'38"E 99.60
L8 S5°36'38"E 99.60
L9 S1°10'28"W 70.91
L10 S2°42'35"W 94.40
L11 S0°46'38"E 63.21
L12 S3°18'07"E 40.08
L13 S1°42'15"W 36.23
L14 S2°21'11"E 76.34
L15 S0°14'12"W 41.31
L16 S1°01'24"E 76.07
L17 S7°57'51"E 17.11
L18 S9°53'04"E 22.68
L19 S16°30'32"E 37.78
L20 S19°14'07"E 45.49
L21 S22°04'56"E 42.28
L22 S1°33'43"W 21.58
L23 S75°05'55"E 45.77
L24 S84°43'39"E 72.60
L25 S66°03'00"E 52.22
L26 S38°34'00"E 30.60
L27 S39°08'38"E 41.93
L28 S47°37'00"E 47.17
L29 S62°11'17"E 31.91
L30 S60°15'03"E 34.96
L31 S45°01'38"E 60.99
L32 S55°01'21"E 47.51
L33 S56°14'28"E 74.15
L34 S42°58'53"E 35.86
L35 S26°46'41"E 14.19
L36 S21°47'13"W 48.86
L37 S1°40'28"E 76.43
L38 S8°03'33"E 37.79
L39 S22°47'28"E 32.91
L40 S53°23'39"E 28.51
L41 S70°10'49"E 35.99
L42 S79°13'53"E 51.42
CREEK
S78°37'42"E
307.30'
BRIDGE
6" mag spike nail (set)
S64°33'43"E
178.05'
S46°17'W
38.78'
S43°15'W
38.40'
S64°08'W
24.01'
S83°58'W
38.78'
S30°36'W
35.97'
S13°25'W
34.31'
S53°00'00"E
S6°22'W
22.76'
S44°00'19"E
46.99'
WV STATE RAIL AUTHORITY
NOTE Property is subject to existing rail road right of way of 40 foot width and with right to extend for slopes. DB V/294 V/296 (1.24 Acres)
N7°12'00"W
825.23'
POND
PEGASUS CAMPGROUD
Approximate location
S55°54'W
36.88'
P.O.B.
S76°12'W
15.60'
N34°46'W
24.06'
Chain link fence
Alum. Post
N89°59'48"W
288.18'
S89°59'48"E
S79°19'00"E
N40°2
CITY OF ELKINS
TAX MAP 111 PARCEL 45
DB 155/208
Log Jam Area
MAP R

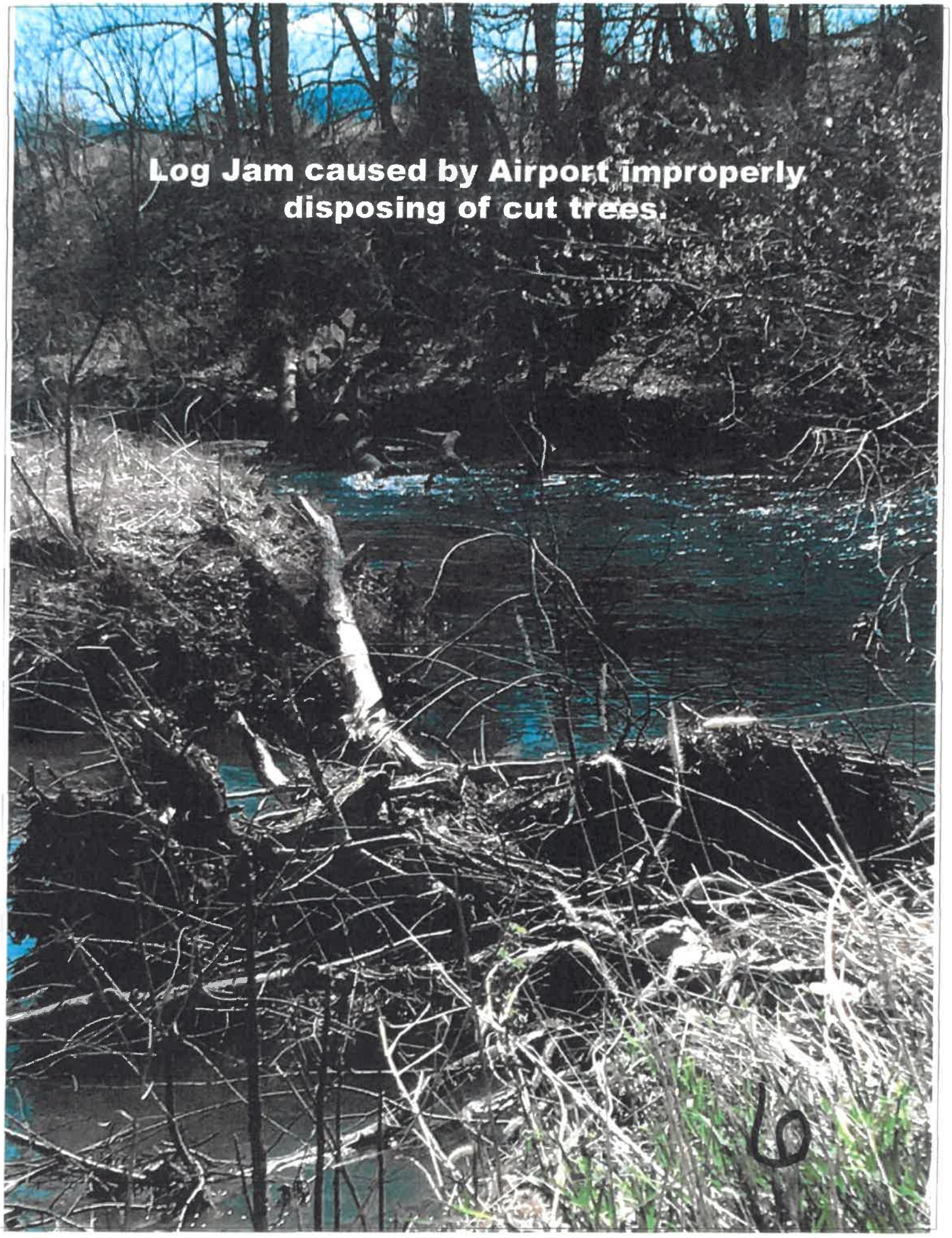

Airport Tree
Removal
Upstream
Site of Log jams on
Branciaroli Property
PEGASUS
Campground
1


om Pegasus Farm Campground's post
2
Site of Log Jams on
Branciaroli Property
Area Before
Airport Tree
Removal
Upstream
Comment
Share
Tag Photo
Options
Send in Messenger


3


4


Airport Property
Log Jam caused by
Airport improperly
disposing of cut trees.
5
Branciaroli Property

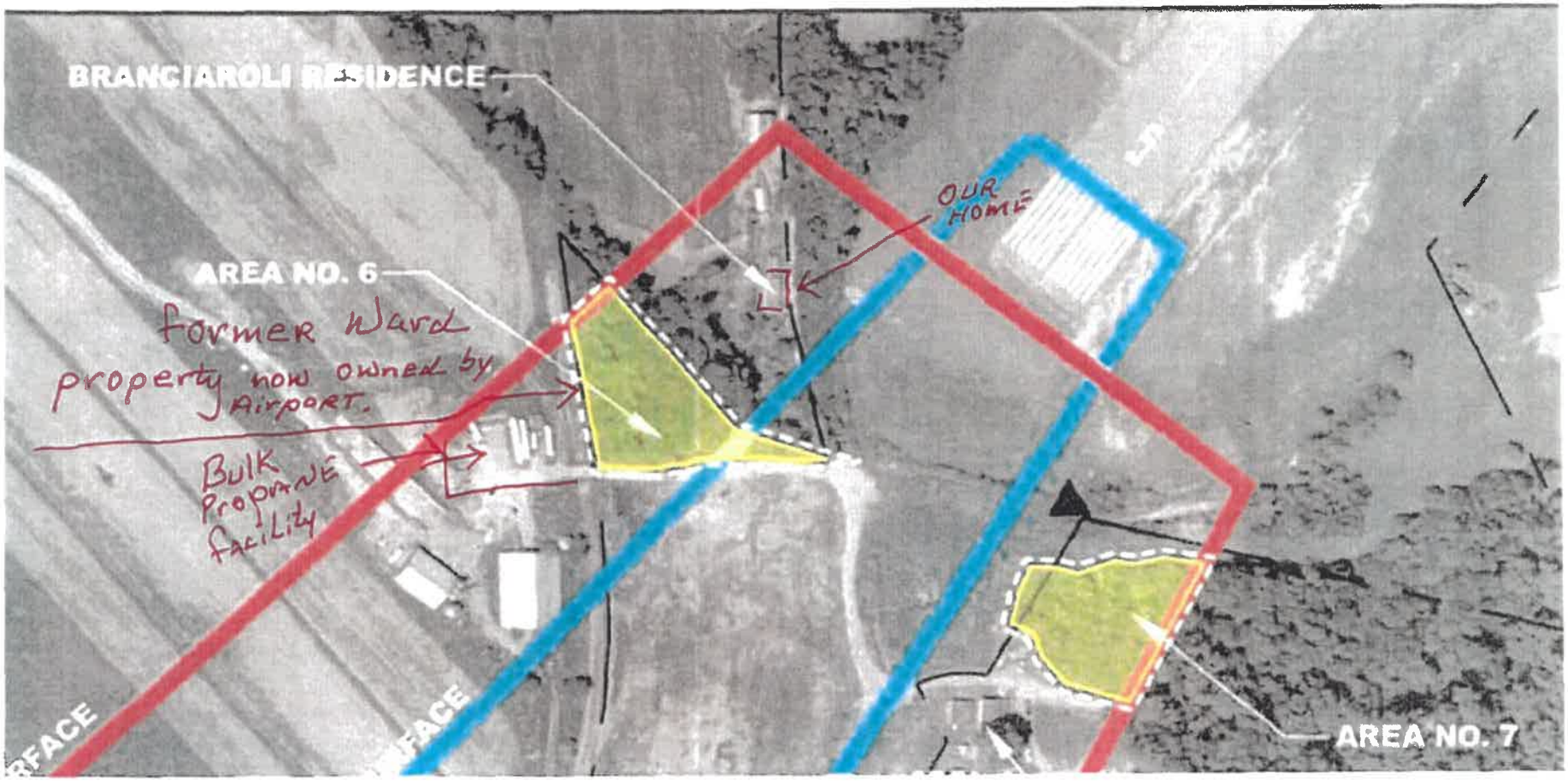

Log Jam caused by Airport improperly
disposing of cut trees.
6






7

Attachment 5



PLANT SURVEY MAP

531 enlarged

Sale Date
4/6/2009

Sales History

Sale Date	Price	Sale Type	Source Code	Validity Code	Book	Page
4/6/2009	$149,637	Land and Buildings	1	2	532	670

Parcel History

Tax Year	Tax Class	Owner	Owner Address	Book/ Page	Legal Description	Land	Building	Total
2019	3	ELKINS-RANDOLPH COUNTY AIRPORT AUTHORITY	RT 4 BOX 271-1, ELKINS, WV 26241	532/ 670	SURF 6.91 AC VALLEY RIVER	$41,500	$0	$41,500
2018	3	ELKINS-RANDOLPH COUNTY AIRPORT AUTHORITY	RT 4 BOX 271-1, ELKINS, WV 26241	532/ 670	SURF 6.91 AC VALLEY RIVER	$41,200	$0	$41,200
2017	3	ELKINS-RANDOLPH COUNTY AIRPORT AUTHORITY	RT 4 BOX 271-1, ELKINS, WV 26241	532/ 670	SURF 6.91 AC VALLEY RIVER	$37,600	$0	$37,600
2016	3	ELKINS-RANDOLPH COUNTY AIRPORT AUTHORITY	RT 4 BOX 271-1, ELKINS, WV 26241	532/ 670	SURF 6.91 AC VALLEY RIVER	$37,600	$0	$37,600
2015	3	ELKINS-RANDOLPH COUNTY AIRPORT AUTHORITY	RT 4 BOX 271-1, ELKINS, WV 26241	532/ 670	SURF 6.91 AC VALLEY RIVER	$37,600	$0	$37,600

Fiscal Year	Service Level (or State Project)	State	Location Identifier	Airport Name	Grant Seq. No.	AIP Federal Funds	Supplemental Discretionary	Work Description	Hub Type
2007	GA	WV	EKN	Elkins-Randolph County-Jennings Randolph Field	13	$213,954	$ -	Install Runway Vertical/Visual Guidance System - 05/23, Remove Obstructions	-
2008	GA	WV	EKN	Elkins-Randolph County-Jennings Randolph Field	14	$228,950	$ -	Acquire Land for Development	-
2009	GA	WV	EKN	Elkins-Randolph County-Jennings Randolph Field	16	$133,911	$ -	Extend Runway - 14/32, Rehabilitate Runway - 05/23	-
2009	GA	WV	EKN	Elkins-Randolph County-Jennings Randolph Field	15	$148,342	$ -	Acquire Land For Approaches	-
2009	GA	WV	EKN	Elkins-Randolph County-Jennings Randolph Field	17	$204,715	$ -	Update Airport Master Plan Study	-
2010	GA	WV	EKN	Elkins-Randolph County-Jennings Randolph Field	18	$246,298	$ -	Acquire Land For Approaches, Install Perimeter Fencing	-
2010	GA	WV	EKN	Elkins-Randolph County-Jennings Randolph Field	19	$485,126	$ -	Improve Airport Drainage, Remove Obstructions	-
2011	GA	WV	EKN	Elkins-Randolph County-Jennings Randolph Field	20	$2,101,959	$ -	Rehabilitate Runway - 05/23	-
2013	GA	WV	EKN	Elkins-Randolph County-Jennings Randolph Field	21	$450,000	$ -	Rehabilitate Taxiway	-

2013	GA	WV	EKN	Elkins-Randolph County-Jennings Randolph Field	22	$1,067,345	$ -	Rehabilitate Taxiway	-
2016	GA	WV	EKN	Elkins-Randolph County-Jennings Randolph Field	23	$139,971	$ -	Conduct Environmental Study	-
2018	GA	WV	EKN	Elkins-Randolph County-Jennings Randolph Field	024	$36,050	$0	Conduct Environmental Study	-

Total AIP federal funds for your selection is: $5,456,621.





Dead Trees caused by topping by Randolph County Airport Authority in 2009-10

The Inter-Mountain
February 18, 2020 | Today's Paper | Submit News | Subscribe Today

Attachment U

Residents share concerns with airport project

LOCAL NEWS

HALEY GORDON



ELKINS — Local residents shared concerns with a FAA mandated environment assessment with the Elkins-Randolph County Regional Airport Authority during a public hearing at the James F. Cain Courthouse Annex on Wednesday.

"The entire project is an obstruction removal project mandated by the FAA and to do that, they have said we have to complete an environmental assessment," said Craig Hyre, president of the Elkins-Randolph County Airport Authority.

Over 28 acres of trees will need clear cut or trimmed near runways 5 and 23, and the environmental assessment is step one of that project.

"The project will also consist of removing or lowering five structures," explained Melissa Defibaugh, airport project manager with Chapman Technical Group. These structures include three grain silos, one light tower and one utility pole.

Defibaugh stated that the two desired outcomes from this project will be to maintain the current length of the runway available and to increase safety *"both in the air and on the ground for everybody."*

The Airport Authority invited concerned members of the public to make comments at during the hearing, which will be compiled and sent to the FAA. The FAA will then decide, based on the current environmental assessment draft and complaints of constituents, if the project will be allowed.

Bonnie Branciaroli of Pegasus Farm Campground was the first to voice her concerns.

"Is it worth the taking a devaluation of private property now for projects that may be 10, 20, 30 years down the road? That's one concern that we have as Pegasus Farm Campground," she said.

"We have lived next to the Elkins airport for 30 years and within that 30 year period, we have found that the airport has always been underutilized, very much underutilized," said Branciaroli. *"Mark (Branciaroli) and I sat down this morning and tried to figure out how in the world you came up with 8,560 total operations for 2019. We decided to run some numbers and unless you're counting local touch and go's and maybe helicopter fill ups, if you divide that number out to a per day usage rate, that rate would be 23.6 airplanes and helicopters taking off and landing per day. We've never seen that, ever. There has never been that much traffic in the 30 years that we've been there."*

Branciaroli requested more information about project timings, compensation for loss of income due to destruction and assurance that the Airport Authority will cut or trim trees according to private property standards and *"clean up accordingly."*

"Furthermore, let it be known that we were never contacted in any form. No phone call, no letter and no email about this project and how it would impact our property. We found out through a neighbor one week ago," she said

Bud Cupp, a local farmer, also voiced his displeasure with the project.

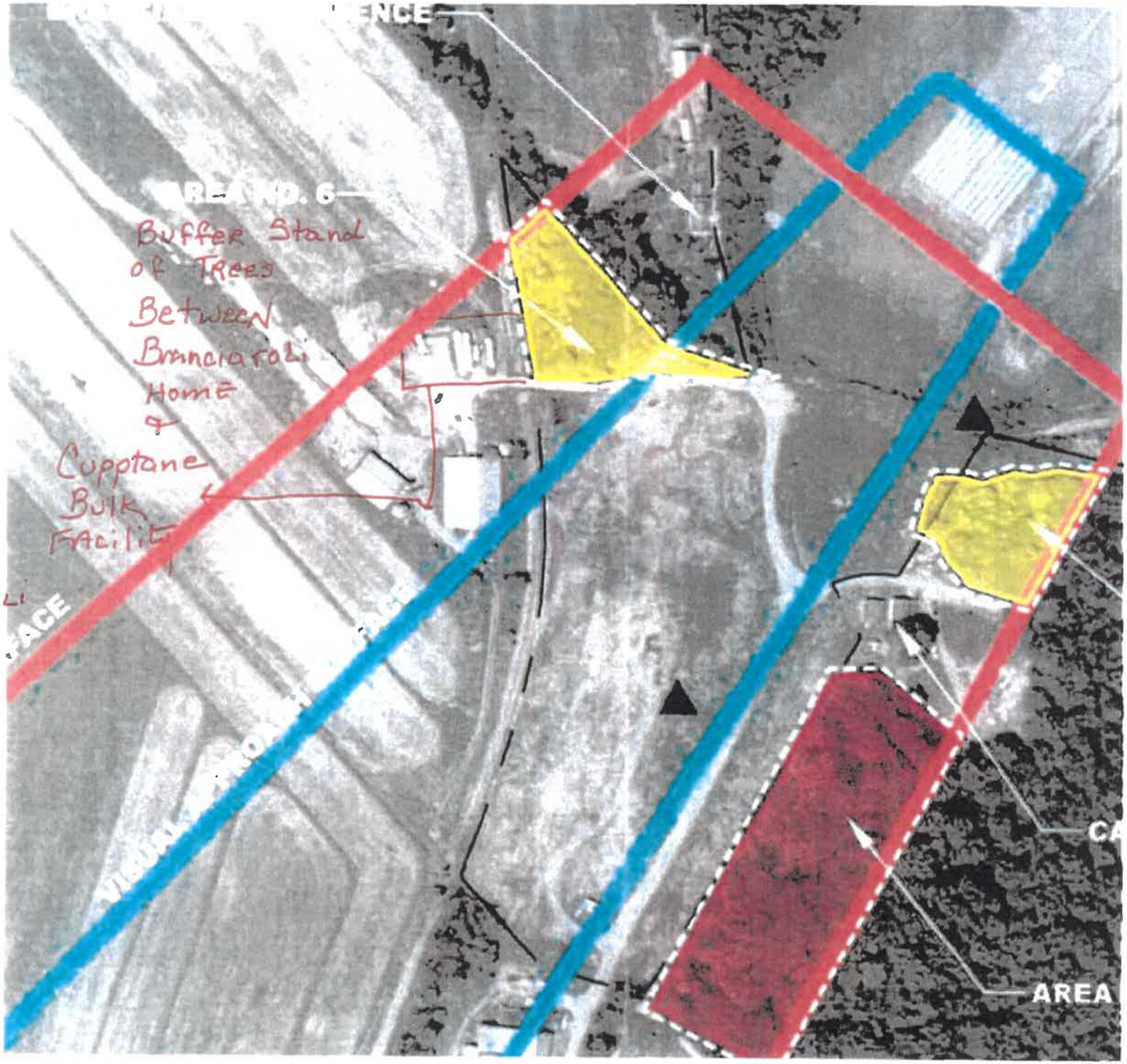
"I've been in this country and run the maple grove up there for 70 or 60 years and here you're going to take over the place and you haven't even approached me about what you might give for the farm. I kind of resent that," he said.

"The poor people are Randolph county; the farmers and the timberers, the coal miners pay for these taxes," he said *"Just what gives you the authority to think you can take somebody's property for something that doesn't take care of very few people?"*

All comments were gathered to be sent to the FAA along with the draft of the environmental assessment. Those in attendance were also encouraged to send written comments to either the Airport Authority or the FAA. Comments must be postmarked by Feb. 23.

NOTE: An aircraft on a non-precision approach (we have no precision approaches at EKN) has to have an altitude of 3,100 feet when breaking out of the clouds and 1 and 1/2 mile visibility to visually land at EKN. The airport elevation is 1987 feet. A helicopter operates under other FAA regulations, helicopters only need special VFR clearance and 3/4 mile visibility.

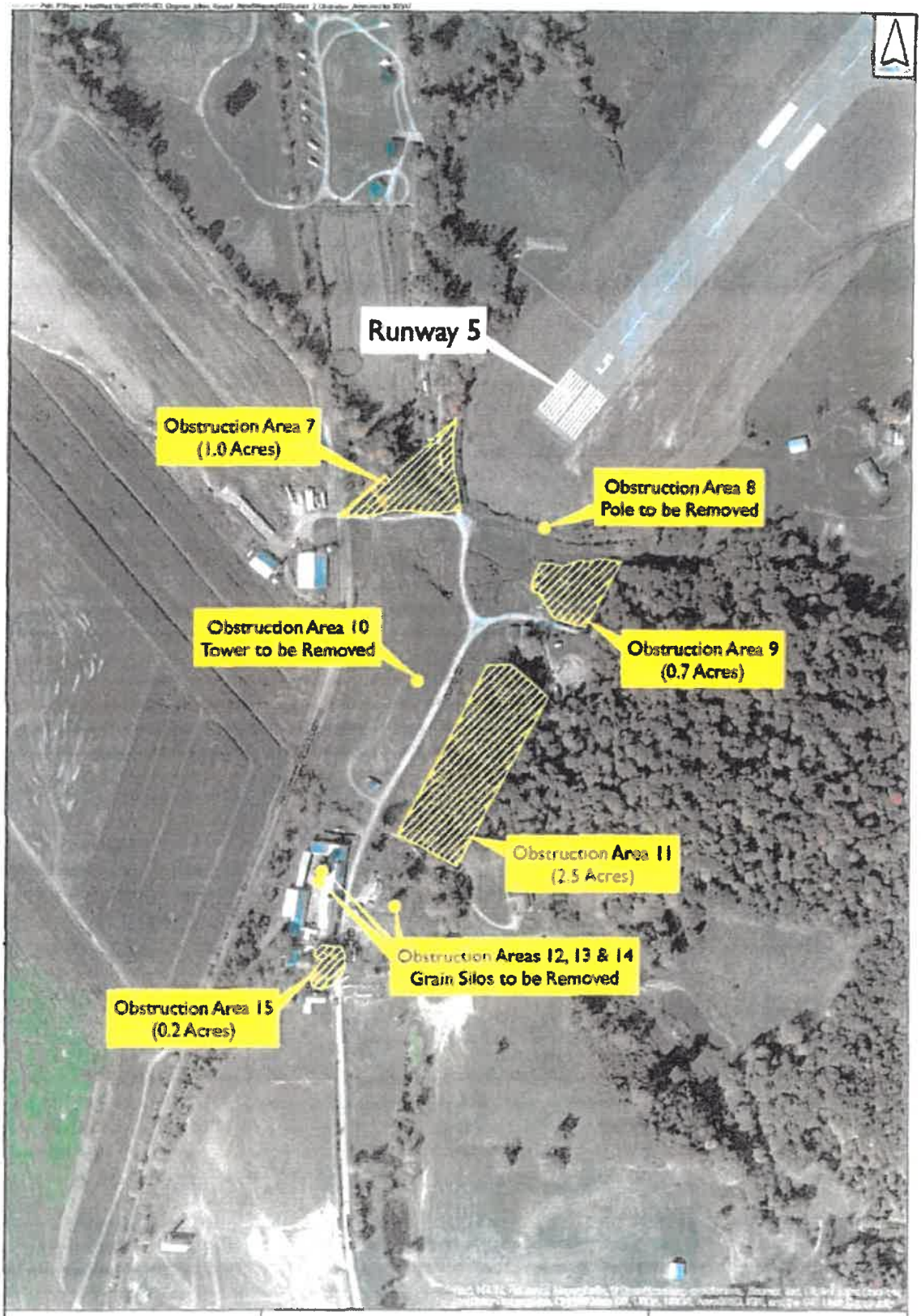




Glide Slope width and SAFETY FACTOR FOR BRANCIAROLI Household

MAP V

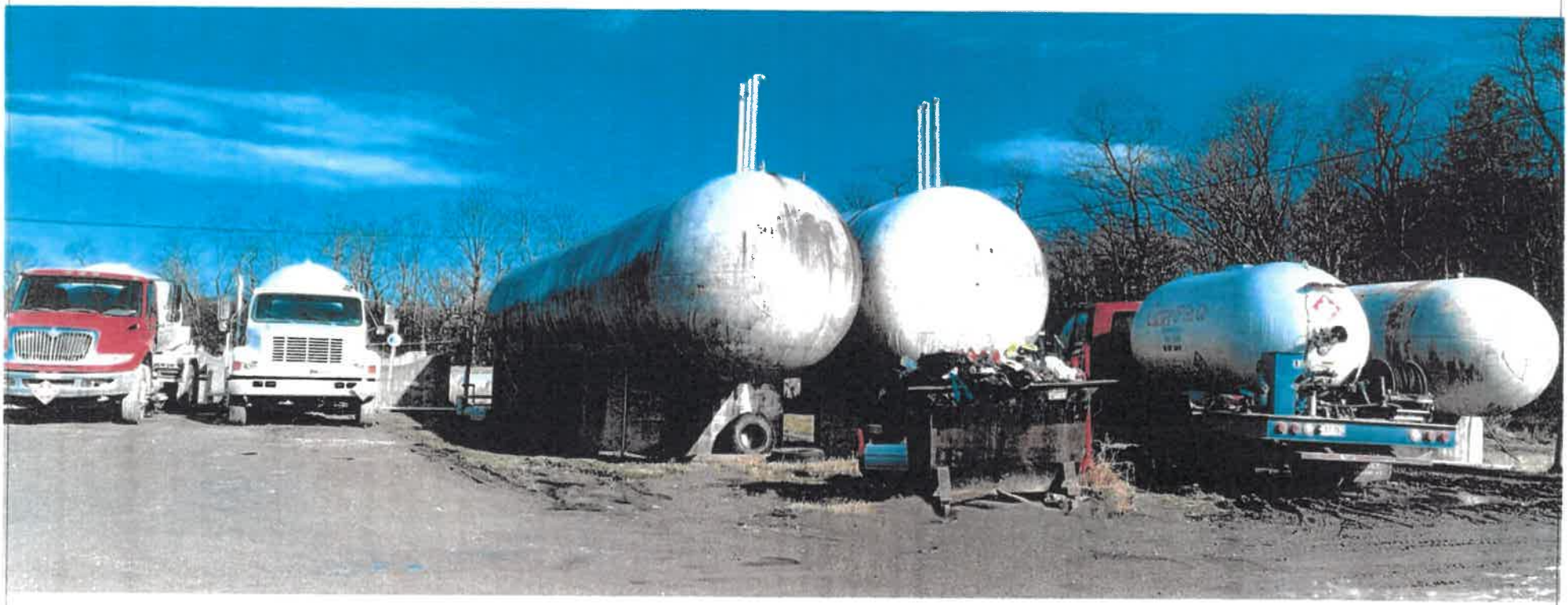
OBSTRUCTION MAP W



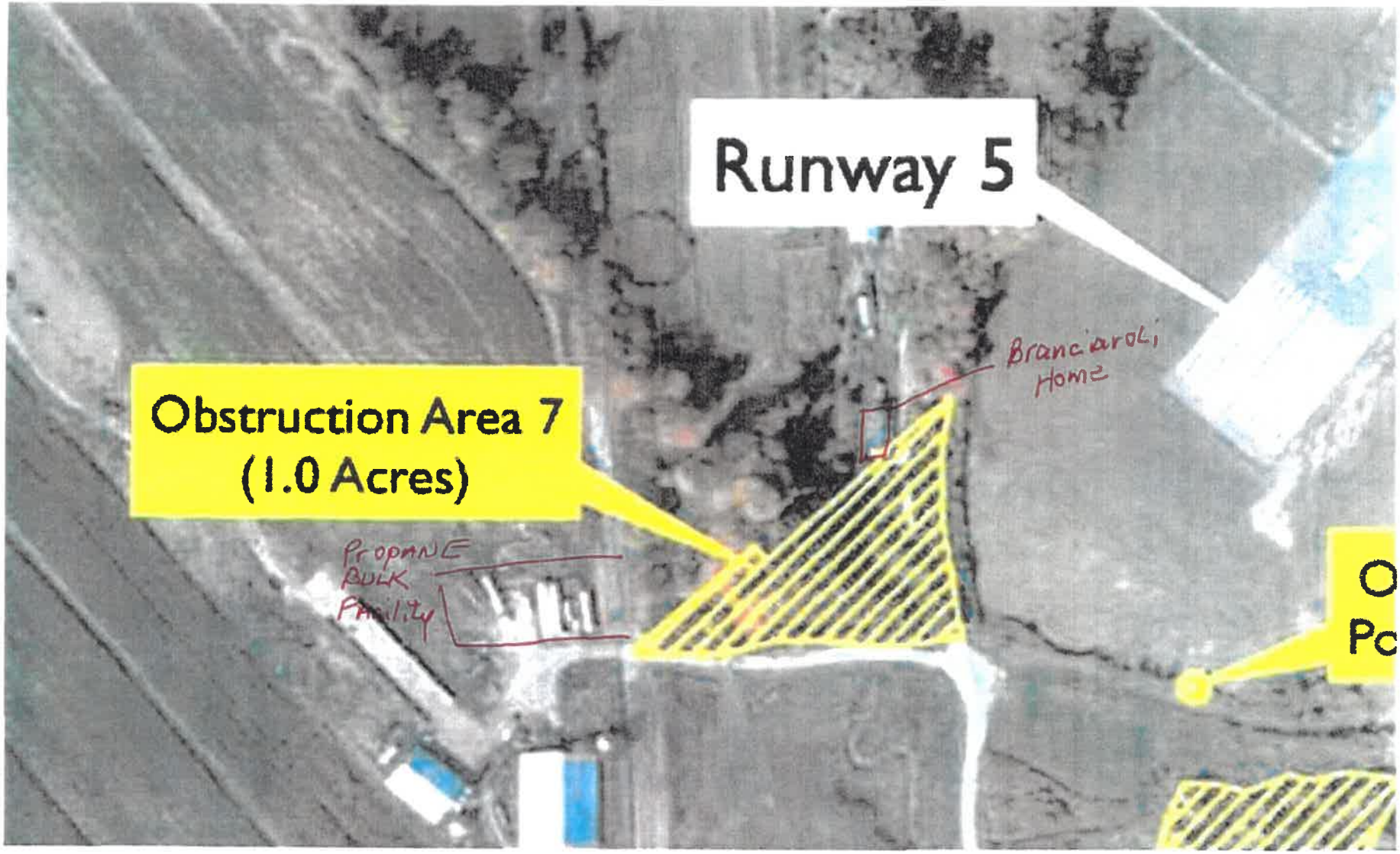
Prepared by:	Exhibit 2 - Survey Area Runway 5 Obstruction Areas Elkins-Randolph County Regional Airport	Prepared for:
Third Rock Consultants, LLC 2526 Regency Road, Suite 180 Lexington, Kentucky 40503	0 150 300 600 Feet	Chapman Technical Group 43 East Main Street Buckhannon, West Virginia 26201

540

Cuppone Bulk Propane Facility



OBSTRUCTION MAP enlarged



Page 540 enlarged

FIRMLY TO SEAL

UNITED STATES POSTAL SERVICE

1021

25813

U.S. POSTAGE PAID
PM 1-Day
ELKINS, WV
26241
FEB 21, 20
AMOUNT
$14.15
R2305H127563-11

4L

7019 2280 0000 6954 0658

TY MAIL
RATE
REQUIRED

UNITED STATES POSTAL SERVICE®

RIORITY®
MAIL

of delivery specified*
TRACKING™ included to many major
national destinations.
ed international insurance.
up available.*
supplies online.*
used internationally, a customs
ration label may be required.
nestic only

0000 1000 0014

EP14F Oct 2018
OD: 12 1/2 x 9 1/2

To schedule free
Package Pickup,
scan the QR code.

USPS.COM/PICKUP

FROM:
Mark Branciaroli
624 Arnold Hill Rd
Elkins, WV 26241

BC
2-22
RB

TO:
Matthew P. D. Giulian
Susan B. Stafford
Federal Aviation Administration
Beckley Airports Field Office
1176 Airport Circle,
Room 101
Beaver, WV 25813

This packaging is the property of the U.S. Postal Service® and is provided solely for use in sending Priority Mail® shipments.
Misuse may be a violation of federal law. This packaging is not for resale. EP14F © U.S. Postal Service; October 2018; All rights reserved.

only * For Domestic shipments, the maximum weight is 70 lbs. For International shipments, the maximum weight is 4 lbs.

WEST VIRGINIA
Division of Culture and History

RECEIVED
MAR 02 2020
CHAPMAN TECHNICAL GROUP

The Culture Center
1900 Kanawha Blvd., E.
Charleston, WV 25305-0300
Randall Reid-Smith, Commissioner
Phone 304.558.0220 • www.wvculture.org
Fax 304.558.2779 • TDD 304.558.3562
EEO/AA Employer

February 24, 2020

Ms. Melissa A. Defibaugh, PE
Chapman Technical Group
43 East Main Street
Buckhannon, WV 26201

RE: Elkins-Randolph County Regional Airport – Obstruction Removal (Runway 5-23 Approaches)
FR#: 16-984-RD-3

Dear Ms. Defibaugh:

We have reviewed the draft Short Environmental Assessment Form that has been prepared for the above referenced project. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

According to the submitted information, the Elkins-Randolph County Regional Airport Authority proposes to undertake an obstruction removal project in the approach surfaces of Runways 5 and 23 at the Elkins-Randolph County Regional Airport. The overall project will consist of clearing 16.14 acres of trees, trimming 12.37 acres of trees, and removing or lowering five structures. Work in the Runway 5 Approach Surface will consist of clearing 2.56 acres of trees, trimming 1.76 acres of trees, removing two obstruction light structures, and lowering the top elevation of three silos. Work in the Runway 23 Approach Surface will consist of clearing 13.58 acres of trees and trimming 10.61 acres of trees.

Architectural Resources:
We have reviewed the revised project plans, and we note that the overall project areas are essentially the same as the earlier submittals. Therefore, we remain in concurrence with our findings provided in our review letters dated March 30, 2017 and January 4, 2018 that the proposed project will affect no architectural properties eligible for or included in the National Register of Historic Places. No further consultation is necessary regarding architectural resources; however, we ask that you contact our office if your project should change.

Archaeological Resources:
As noted in the submitted Environmental Assessment, a majority of the proposed project area underwent a Phase I archaeological survey in 2017. There are no recorded archaeological resources located within the proposed project area. Submitted information indicates that the

project has undergone a slight modification since our prior review in January 2018. However, after review of the current project information, we remain in concurrence with our prior recommendation that the proposed project will have no effect on archaeological historic properties. No further consultation is necessary regarding archaeological resources.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Benjamin M. Riggle, Structural Historian, or Carolyn M. Kender, Archaeologist, at (304) 558-0240.*

Sincerely,

Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/CMK/BMR

Comment Number	Commenter	Section/Page/ Table/Appendix	Comment Summary	Draft EA Comment Response Matrix Comment Number	Comment Response
1	Linda Little		Asking for another solution to the supposed clear cutting of the trees on my property.		The Airport Authority, through its' consultant on the project, has had ongoing direct contact with property owners to discuss the project and allow the property owners to express concerns relating to the action, including project scoping and affected project areas in conjunction with a Light Detection and Ranging (LIDAR) survey completed in 2017. The project scope was revised from entirely clearing the obstruction areas to a mixture of clearing and trimming the obstruction areas in 2017 as a result of that survey.
2	Linda Little	S1/P6	Planes have come and gone the past 20 years without incident	19	See Appendix 14, Attachment 1 for draft EA prior response to comments matrix.
3	Linda Little	S1/P6	The government is trying to take over the airspace and the land.		Evaluating the runway environment from an operational standpoint, Runway 5-23 is not in compliance with current FAA design criteria contained in Advisory Circular 150/5300-13A pertaining to an approach surface free of obstacles. The completion of the project will bring the airport into compliance with current FAA design

					standards. Bringing the airport into compliance increases both the safety of the flying public as well as those on the ground within the approach surfaces being maintained.
4	Linda Little	S6(F)/P22; A14	Why would I give easement or right of way on my property when I cannot do with it as I want?	54	See Appendix 14, Attachment 1 for draft EA prior response to comments matrix and Attachment 4 for the Uniform Act.
5	Linda Little	S6(F)/P22; A14	Why would I pay the taxes and do the upkeep when I don't have the right to do what I want?	54	See Appendix 14, Attachment 1 for draft EA prior response to comments matrix and Attachment 4 for the Uniform Act.
6	Linda Little		Progress should be with the equipment on these planes to be able to tell them there are trees there.		Evaluating the runway environment from an operational standpoint, Runway 5-23 is not in compliance with current FAA design criteria contained in Advisory Circular 150/5300-13A pertaining to an approach surface free of obstacles. The completion of the project will bring the airport into compliance with current FAA design standards. Bringing the airport into compliance increases both the safety of the flying public as well as those on the ground within the approach surfaces being maintained.
7	Arnold Hill Road Residents	S2/P7; S6(I)(1)/P24; S6(N)(3)(a)/P43;S8/P48; A14	On February 20, 2020 we attended a meeting and submitted a verbal		Responses to comments received during public review were evaluated and

			opinion and letter. Questions were raised and no answers were given.		incorporated in the revised draft EA narrative or responded to in Appendix 14 Attachment 1 of the revised draft EA.
8	Arnold Hill Road Residents	S9/P48; A14	Covid-19 has pushed most of the local population into forced quarantines and limited social contact, it's been impossible to gather and discuss this matter again. The 30 day after the date of publication for public comment is not only insufficient but comes across as a maneuver to get a project questioned by many rammed through and approved when affected parties have no way and not enough time to react.		A public meeting was held at the Randolph County Commission Chambers at the James F. Cain Annex on February 12, 2020, prior to COVID-19, as part of the first 30-day public review comment period. The project was initiated in 2016, and has been ongoing since 2016. Any and all comments, whether individually or as part of a group, would be accepted during the applicable second 30-day public comment period. The second public comment period was not scheduled until the reopening of public facilities for the document to be available for public viewing. The second public review period involved a wider distribution including the office of the Randolph County Commission, the Pioneer Memorial Public Library, the Helvetia Public Library and the Russell Memorial Public Library in addition to the offices of the airport, Chapman Technical Group and the Airport's website. Affected property owners and previous

					commenters were also provided direct mailings concerning availability of the revised draft document.
9	Arnold Hill Road Residents	S1/P5/T1.2; S1/P7; A1; A2; A3; A4; A14	The airport is underutilized, but that there are 2 to 3 wealthy individuals who have very large airplanes, and who would like to have better IFR minimums. The airport is used mainly for recreational purposes and has no true public benefit.	25, 50	See Appendix 14, Attachment 1 for draft EA prior response to comments matrix, and Attachment 2 for the Airport Master Record.
10	Arnold Hill Road Residents		Why is the information being disseminated misleading? Why is clearly fake information being given to the public? For what reason?	13	See Appendix 14, Attachment 1 for draft EA prior response to comments matrix.
11	Arnold Hill Road Residents	S1/P5/T1.2; A1; A14	A newspaper report mentioning "8560 total operations for 2019," is nothing more than a blatant lie.	1, 13, 50	See Appendix 14, Attachment 1 for draft EA prior response to comments matrix and Attachment 2 for the Airport Master Record.
12	Arnold Hill Road Residents	S9/P48; A14	There is no transparency in a project such as this and most people have not been approached, their opinions heard, their concerns addressed in a satisfactory manner.		Responses to comments received during public review were evaluated and incorporated in the revised draft EA narrative or responded to in Appendix 14 Attachment 1 of the revised draft EA. Public involvement is summarized in Section 9 and included in Appendix 14. Affected property owners were individually mailed a copy of the public notice published on January 24, 2020. Affected property owners and commenters on the draft Environmental Assessment were individually

					mailed a copy of the public notice published on July 17, 2020.
13	Arnold Hill Road Residents	A14	Property owners have been threatened with the use of eminent domain which is clearly and irrefutably an abuse, and not justified.	9	See Appendix 14, Attachment 1 for draft EA prior response to comments matrix.
14	Arnold Hill Road Residents	A14	In what way does this project benefit the local community? Who is truly benefiting from this project? It is the general opinion that some very resourceful people, who own private jets, lobbied for this to go ahead?	10, 11	See Appendix 14, Attachment 1 for draft EA prior response to comments matrix and Attachment 3 for the National Plan of Integrated Airport Systems (NPIAS).
15	Arnold Hill Road Residents	S6(I)(1)/P24; S6(L)(2)/P26; S6(L)(3)/P28; A14	What compensation will affected property owners receive?	4, 5, 6, 12, 28, 35, 41, 54, 55, 56, 61, 65	See Appendix 14, Attachment 1 for draft EA prior response to comments matrix and Attachment 4 for the Uniform Act.
16	Arnold Hill Road Residents	A14	Poor management is one of the main reasons why the airport needs an influx of federal funds every five years or so.	47	Airports in the NPIAS are entitled to a certain amount of Airport Improvement Program funding each year based on passenger volume. If their capital project needs exceed their available entitlement funds, then the FAA can supplement their entitlements with discretionary funding. For small primary, reliever, and general aviation airports, the grant covers a range of 90-95 percent of eligible costs, based on statutory requirements. See Appendix 14, Attachment 1 for draft EA prior response to comments

					matrix and Attachment 3 for the NPIAS.
17	Arnold Hill Road Residents		10 years ago the airport bought the little knoll between Cupps and Pegasus Farm Campground. The landscaping was literally ruined. As a result, perennial gardens and other projects were abandoned as no longer viable.		Reference attached letter from Bonnie and Mark Branciaroli, Pegasus Farm Campground, 480 Arnold Hill Road, Elkins, WV 26241 dated July 13, 2010 and attached letter from Mark Branciaroli, Pegasus Farm Campground, 480 Arnold Hill Road, Elkins, WV 26241 dated August 12, 2010.
18	Arnold Hill Road Residents		Five years ago a swath of Forest was cut directly up from Pegasus Campground, bordering Chenoweth Creek. Even though federal grants state that such operations must be followed by clean up, that was never done. The result? Years of problems resulting from log jams; a flood cost the Pegasus Farm Campground owners thousands of dollars. Serious environmental damage was caused that no one seemed to make the least effort to mitigate!		Reference attached FAA communications and associated obstruction removal invoices from Triple H Construction Company with regard to LDA obstructions on Runway 23. The obstructions were removed in 2015 on property owned by Mrs. Frances Harper. No records were located and nothing was recorded in the Airport Authority's meeting minutes with regard to any complaints lodged by the Pegasus Farm Campground or any other property owner in the vicinity of the airport.
19	Arnold Hill Road Residents	S6(A)(1)/P16; S6(K)/P25; A14	An issue that we also raised during the meeting last February include the integrity and well-being of the lives of local residents, because of increased noise and air pollution.	15	See Appendix 14, Attachment 1 for draft EA prior response to comments matrix. No changes in flight approaches or aircraft utilizing the airport will occur. Largely, the obstruction removal is required to restore

					night operations and reinstate prior conditions for the airport. Randolph County is in attainment for all criteria pollutants. The construction emissions inventory assumption for the Proposed Action is well below the established de minimis thresholds for criterial pollutants. Day-to-day operations will not be appreciably different and the frequency of aircraft takeoffs and landings is not anticipated to change with or without the project; therefore, there are no anticipated changes to air quality associated with operations after construction.
20	Arnold Hill Road Residents	A14	We, the undersigned, state that we vehemently oppose this project and see no public benefit whatsoever in it, very much the contrary, and believe it should be abandoned!	10	See Appendix 14, Attachment 1 for draft EA prior response to comments matrix and Attachment 3 for the National Plan of Integrated Airport Systems (NPIAS).

Pegasus Farm Campground Documents - Attached

7-13-10

Chuck Stivers, President
Elkins/Randolph County Airport Authority
Rt. 4, Box 271-1
Elkins, WV 26241

Mr Stivers:

I am writing this letter in regard to the concern of clear cutting trees around and on our property located at 480 Arnold Hill Road, Elkins. Our land is located adjacent to the airport property, bordering Runway 5.

Our concerns are many and I will take time here to outline them one by one.

First, I would like to say that we have had little to no communication from the Authority as to the reason why these trees and forest area will be decimated; or how this immediate destruction of the two properties involved integrate with the rumors of possible runway expansion in the very far future.

We have heard, however, issues of "aircraft safety." As you know, my husband has been a pilot since the mid-80s (with several ratings, including multi-engine commercial) and has flown out of the Elkins Airport for just as long. He has never encountered a safety issue on runway 5. As a matter of fact, there has never been a safety issue involving any pilot or aircraft flying in or out of the Elkins Airport connected to runway 5. Also runway 5 is the least used runway due to wind direction through the valley.

It seems to us that the immediacy of the situation is very similar to the felling of trees to build the fence around the airport a few years ago, that is, the acquisition of federal funding to be used in a specific time period, regardless of how the project impacts bordering properties. We were overrun by the first project, we will not be put into that position again.

We are looking at the proposed timbering from two perspectives:

1. How it will impact our commercial business
2. How it will impact the environment and our safety

Our major concern is our commercial business, the Pegasus Farm Campground and RV Park. The tract of trees in question is located at the entrance of the facility. Clear cutting the land around us, and cutting the trees at our entrance way will de-value our property as well as the experience of our Agri-tourism business that we have nurtured for the past three years. Although we live in the home located near the tract, the house is also used as the check-in office, the gardens located near the tract are open to touring and browsing, the fruit trees to picking and harvesting. The loss of this "green" first impression to the Pegasus Farm could result in loss of income, which would definitely affect our business, our livlihood, and our well being.

The business was built with SBA funding and includes the entire tract of land -- all 39.9 acres. I am sure the SBA will need to be notified if such devastation is to take place.

We can understand how the FAA or the Airport Authority could care less about our thoughts on the issue. But since we are taxpayers and you will be using our tax dollars to fund this project and since we are to be individually impacted, we have a right to voice our opinion and request specific reports and information.

We are looking at two tracts of land here that will affect our lives if timbered as planned by the Elkin/Randolph County Airport Authority.

One is a strip of our land located at the entrance of our business; the second, a swath of land recently purchased by the Airport Authority, using county tax dollars, which is located between our entrance area and the Cuptane propane facility.

This particular parcel of land recently purchased by the Airport Authority includes a small swath that borders our front yard area and the Cupptane facility. It is a little over 100 feet wide and includes many trees, some as old as 50-75 years.

If you want to look at safety issues, you need to take a look at this "safety barrier." The Cupptane propane facility is located less than 80 yards from our place of residence. Our home sits on a small knoll that places us in grave danger if any one of those propane tanks should ignite. There is approximately 75,000 gallons of propane located less than 80 yards from my front porch.

This is what we have found looking into this fire protection issue:
According to the National Fire Protection Association:
"In regard to a bulk propane storage facility with a capacity of more than 4,000 gallons of propane and a residential residence with a natural fire/explosion barrier such as an earthen embankment or a tract of trees, if a third party wishes to remove the barrier, then the third party is required to have a fire safety analysis performed by 3-2.3.3. The fire safety analysis is described in section 3-10 of the Association Guide.

The tract of trees in question is definitely defined as a fire barrier, a barrier that could possibly save our lives, the lives of our visitors passing through our campground, and probably the lives of pilots and Airport personel if an explosion should ever happen to occur. The removal of those trees is definitely a safety issue that needs to be addressed.

Next, there are environmental issues:

The waterway running through this same section of forest is a tributary of Chenoweth Creek and is the main water source that provides water for our livestock. How will it be affected?

Most of the trees in question are between 50 and 75 years old, a beautiful stand that has served as a songbird sanctuary for years. We have taken special care to build the songbird population since we have lived on the farm since 1991. We are now in contact with the Sierra Club and the Audubon Society to find out how the felling of this stand will affect bird population.

Since 1991, we have spent over $20,000 on the planting of shrubs, trees, and perennials in the lower part of our property that borders the stand, and in the late 1990s and early 2000's these plantings were part of my commercial landscaping business called Bonnie's Gardens. It is quite evident that a large portion of these gardens will be obliterated with the timbering process. The Randolph County Airport Authority has never once offered to speak to us concerning this issue or offered any kind of compensation for this destruction.

We are requesting to see an Environmental Impact study on the property that includes this old forest and waterway. We want to know how the removal of this stand will affect wildlife, birds and the water system.

We were told by Airport Authority personel that the Airport owned the "air rights" to our property and could do what they wanted. In looking over the deed it is true that the City of Elkins purchased certain rights back in 1943. However, those rights are bound by restrictions as well. We would like to see a engineering report that shows how much of our trees should be trimmed down according to the specifics mentioned in the deed.

We would also like to see a report concerning the glide slope issue, which is the basis of all this activity.

In conclusion, we are stating here that no trees directly on our property will be cut or trimmed without good reason and show of evidence, and if good reason can be found, not without due compensation.

Secondly, we will argue the clear cutting of the tract of land that borders our property and is connected to our watershed — that portion which was recently purchased by the Airport Auhority from the Charlie Ward estate — on the grounds of safety to not only our immediate family, but the visitors who pass through our campground. We are also contending that the clear cutting of this tract of trees will produce a negative impact to our environment and our land.

To reiterate, we are requesting the following:

1. An extensive environmental impact study to determine how the clear cutting of the land adjacent to our entrance will affect our watershed, our bird population, and our adjoining land.
2. A fire protection / safety analysis on how the removal of the aforementioned tract of trees will impact our safety and the safety of our visitors.
3. An engineering report showing what part of the trees on our property need be cut according to deed specifications.

4. A report showing how the glide slope of runway 5 affects our property in relation to the timbering process.

Until such reports can be shown, the Elkins/Randolph County Airport Authority has no right to cut any trees on our property or clear cut the said tract of land bordering our entrance and the Cuptane propane facility. We await your prompt reply before beginning legal action against all parties.

Sincerely,

Bonnie and Mark Branciaroli
Pegasus Farm Campground
480 Arnold Hill Road
Elkins, WV 26241

cc
Aeronautics Commission
Randolph County Commission
City of Elkins

cc
The InterMountain
WV Department of Natural Resources

Pegasus Farm Campground
480 Arnold Hill Rd
Elkins, WV 26241
304-642-2351

RE: Cutting of trees and other issues regarding the Pegasus Farm Campground entrance and the Randolph County Airport.

ATT: Chuck Stivers, et al.

Let it be known to all parties involved that the Randolph County Airport Authority has addressed all the issues, in a timely manner, we were concerned about.

Specifically the cutting of the barrier between Cupptane propane storage is not going to happen and the majority of the trees that were to be removed are not now being removed.

In addition, all trees on our property that need "topped" will be "topped" at our expense. We were advised that at some point in time we would be shown the parameters of topping the trees 20 feet below the infringement into the up-sloping clearance area.

We were also told we would be informed of all activity taking place around and near our property.

We are very pleased with the response, time and effort put into addressing our issues by the Airport Authority and specifically Chuck Stivers.

Respectfully,

Mark Branciaroli
480 Arnold Hill Rd
Elkins, WV 26241

8/12/10

LDA Clearing Documents - Attached

RE: OUW LDA-C at Elkins

File Edit View Tools Message Help

Reply Reply All Forward Print Delete Previous Next Addresses

From: michael.stalnaker@faa.gov
Date: Tuesday, October 21, 2014 10:26 AM
To: Manager@elkinsairport.com
Subject: RE: OUW LDA-C at Elkins
Attach: localizer plat.pdf (4.52 MB)

Here is the plat that we were using to estimate the area for cutting. We were going 200 feet on each side of the flight path for the localizer. We were notified that we could not proceed any further with the removal of the trees from above.

The critical area is described in the Order JO 6750.49 page 10 for grass cutting as

(3) Vegetation control. Lease agreements should contain provisions to control vegetation growth. Vegetation should not be permitted to exceed 12 inches in height in the ILS critical area within 2000 feet of the localizer and 800 feet of glide slope antennas. Action must be initiated when observed vegetation growth exceed this height. Growth of crops of any type must not be permitted. Mowing operations should be coordinated for a time to coincide with scheduled facility maintenance.

Other references are

14 C.F.R. § 139.333 Protection of NAVAIDS applies to all airport that are granted certification by the Federal Aviation Administration. The following is an excerpt from that document: *"In a manner authorized by the Administrator, each certificate holder must—*
(c) Prevent, insofar as it is within the airport's authority, interruption of visual and electronic signals of NAVAIDS."

49 U.S.C § 47107 Grant Assurance 19, Operations and Maintenance applies to all airports that have signed a grant assurance agreement: *"The airport and all facilities...shall be operated at all times in a safe and serviceable condition."*

Since the Localizer operates on reflective signals, other factors outside the critical area may influence the radiated signal and are evaluated as to their impact on the flight path. This may include fencing, buildings and structures, changes in the terrain since the Commissioning/Reference flight checks.

Let me know if you need additional information.

Thank You.

Michael J. Stalnaker
SSC Manager WES54-CKB Nav/Com (84KH)
2300 Aviation Way Bridgeport, WV 26330
W-(304) 842-3724 x221 C-(304) 203-7631

From: Elkins-Randolph Co. Airport [mailto:Manager@elkinsairport.com]
Sent: Friday, October 03, 2014 10:36 AM
To: Stalnaker, Michael (FAA)
Subject: OUW LDA-C at Elkins

Michael,

Could you supply us with a map with the critical limits area of the LDA-C and the measurements of that area.

Dick Chaney, Manager
Elkins-Randolph Co. Regional Airport
Manager@elkinsairport.com
304-636-2726

obe Reader

this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. **Operation and Maintenance.**

a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

1) Operating the airport's aeronautical facilities whenever required;
2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. **Hazard Removal and Mitigation.** It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. **Compatible Land Use.** It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

pdf - Adobe Reader

U.S. Department of Transportation
Federal Aviation Administration

Eastern Logistics Service Area
Real Estate & Utilities Group
ALO-630

1701 Columbia Avenue
College Park, GA 30337

August 28, 2014

Elkins Randolph County Regional Airport Authority
Attn: Mr. Richard Cheaney
Route 4, Box 271-1
Elkins, WV 26241

Dear Mr. Cheaney:

This is in reference to FAA Memorandum of Agreement (MOA) No. DTFAEA-06-L-00056, for FAA owned navigation, communication and weather aids in support of Air Traffic Operations at your airport.

As you are aware, the Localizer Directional Aid (LDA) non-precision approach to Runway 23 is out of service due to an unsafe condition caused by obstructions to the Northwest of the departure end of runway 23.

The obstruction and interference was determined to be caused by trees and vegetation in the Localizer Critical Zone. The affected area lies adjacent to the airport security fence on lands owned by Mrs. Frances Harper, whose contact information is: Mrs. Frances Harper, c/o Ms. Jacqueline Harper, POA, 34 Crestview Terrace, Bridgeport, WV 26330; (304)842-0345.

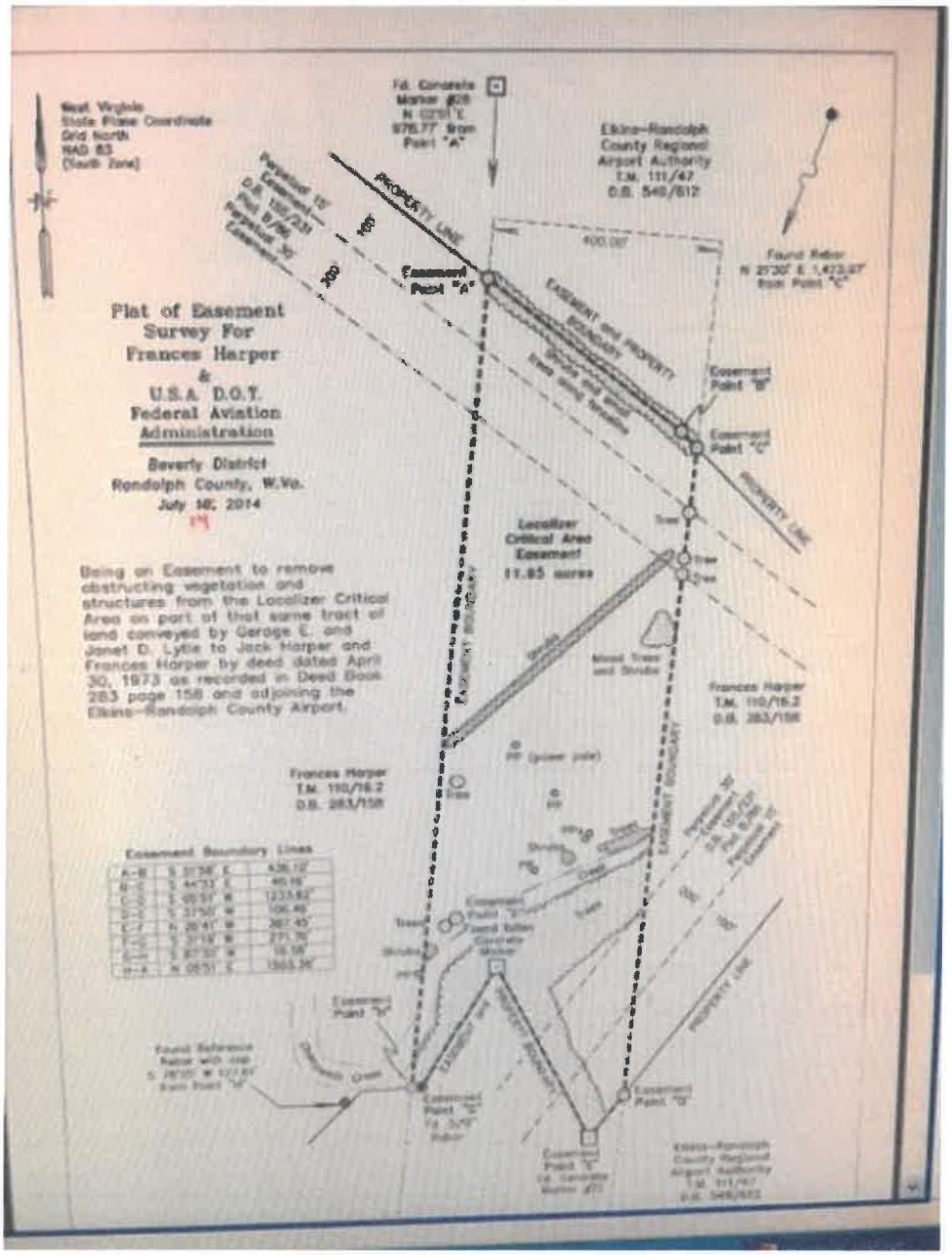
Under the terms and conditions of the MOA and Grant Assurance 20, the airport sponsor is responsible for removing and mitigating this hazard.

For technical issues and coordination, please contact our SSC Communication/Navigation Manager Michael Stalnaker at (304) 842-3724 extension 221.

Thank you for your cooperation and should you have any questions, feel free to contact me at (404) 305-5982.

Sincerely,

David M. Henry
Realty Specialist, ALO-620


West Virginia
State Plane Coordinate
Grid North
NAD 83
[South Zone]
Fd. Concrete
Monument
N 02°51' E
976.77' from
Point "A"
Elkins-Randolph
County Regional
Airport Authority
T.M. 111/47
D.B. 540/812
Found Rebar
N 25°30' E 1,423.67'
from Point "C"
PROPERTY LINE
Perpetual 15'
Easement
D.B. 155/231
Fish, Bird,
Vegetation
Easement
400.00'
100'
200'
Easement
Point "A"
EASEMENT AND PROPERTY
BOUNDARY
Shrubs and Small
trees along fenceline
Easement
Point "B"
Easement
Point "C"
PROPERTY LINE
Plat of Easement
Survey For
Frances Harper
&
U.S.A. D.O.T.
Federal Aviation
Administration
Beverly District
Randolph County, W.Va.
July 16, 2014
Localizer
Critical Area
Easement
11.85 acres
Tree
Tree
Tree
Mixed Trees
and Shrubs
Frances Harper
T.M. 110/16.2
D.B. 283/158
Being an Easement to remove
obstructing vegetation and
structures from the Localizer Critical
Area on part of that same tract of
land conveyed by George E. and
Janet D. Lytle to Jack Harper and
Frances Harper by deed dated April
30, 1973 as recorded in Deed Book
283 page 158 and adjoining the
Elkins-Randolph County Airport.
Frances Harper
T.M. 110/16.2
D.B. 283/158
PP (power pole)
Tree
Shrubs
Trees
Shrubs
Trees
EASEMENT BOUNDARY
Perpetual 30'
Easement
D.B. 155/231
Fish, Bird &
Vegetation
Easement
Easement Boundary Lines
A-B S 31°56' E 438.12'
B-C S 44°33' E 40.19'
C-D S 00°51' W 1233.82'
D-E S 31°50' W 106.45'
E-F N 28°41' W 387.45'
F-G S 31°19' E 271.70'
G-H S 87°30' E 18.18'
H-A N 08°51' E 1865.34'
Easement
Point "A"
Found Bar
Shrubs
Trees
Found Reference
Rebar with cap
S 78°20' W 177.84'
from Point "A"
Easement
Point "A"
1/2" Rebar
Easement
Point "B"
Easement
Point "C"
Elkins-Randolph
County Regional
Airport Authority
T.M. 111/47
D.B. 540/812

TRIPLE H CONSTRUCTION COMPANY
HOWARD H HARPER, OWNER
P. O. BOX 176
BEVERLY, WV 26253
(304)636-1194

April 13, 2015

Elkins Randolph County Regional Airport Authority
Rt 4 Box 271-1
400 Airport Road
Elkins, WV 26241

PROPOSAL FOR: Removing brush on boundaries marked

Lump Sum $19,800.00

Proposal good for 30 days.

TRIPLE H CONSTRUCTION COMPANY
HOWARD H HARPER, OWNER
P. O. BOX 176
BEVERLY, WV 26253
(304)636-1194

INV: # 51515

May 15, 2015

Elkins Randolph County Regional Airport Authority
Rt 4 Box 271-1
400 Airport Road
Elkins, WV 26241

PAID
MAY 16 2015
BY:

RE: Removing brush on boundaries marked

5/13/14 ¾ of work is completed but billing for 1/2

Invoice Total $9,900.00

TRIPLE H CONSTRUCTION COMPANY
HOWARD H HARPER, OWNER
P. O. BOX 176
BEVERLY, WV 26253
(304)636-1194

June 9, 2015

FINAL INVOICE
Invoice #060915

Elkins Randolph County Regional Airport Authority
Rt 4 Box 271-1
400 Airport Road
Elkins, WV 26241

RE: Removing brush on boundaries marked

06/09/15	Work completed	$9,900.00
	Change Order (additional clearing)	$5,200.00

Invoice Total $15,100.00

Defibaugh, Melissa

From: Linda <llittle@cebridge.net>
Sent: Saturday, August 15, 2020 12:25 PM
To: Defibaugh, Melissa; Susan.Stafford@faa.gov; Manager@elkinsairport.com
Subject: FW: airport obstruction runway 23

Sent from Mail for Windows 10

From:
Sent: Saturday, August 15, 2020 12:16 PM
To: MDefibaugh@chaptech.com; Susan.Stafford@faa.gov; Manager@elkinsairport.com
Subject: airport obstruction runway 23

Again, I find myself asking for another solution about the supposed clear cutting of the trees on my property. I have lived here for 63 years and NEVER have they been a problem in the past. I have been assured that the big oaks are mature and have been for probable the past 20 years and the planes have come and gone the past 20 years without incident.

Local pilots are even saying that this is not necessary. It's just the government trying to take over the airspace and the land. Why would I give easement or right of way on MY property when I cannot do with it as I want? If I want privacy with the trees, I can't have it. Why would I pay the taxes and do the upkeep when I don't have the right to do what I want?

Progress should be with the equipment on these planes to be able to tell them there are trees there. They are a living structure. They provide me with protection, shade, cleaner air and privacy. Please don't take that away from me.

We, the people have our rights as proclaimed with the 5th Amendment.

Sincerely,
Linda Little
111 Silver Fox Drive
Elkins WV 26241
Sent from Mail for Windows 10

PUBLIC COMMENT CONCERNING THE ELKINS-RANDOLPH COUNTY REGIONAL AIRPORT AUTHORITY OFFICIAL NOTICE OF PUBLIC REVIEW ELKINS-RANDOLPH COUNTY REGIONAL AIRPORT – OBSTRUCTION REMOVAL (RUNWAY 5-23 APPROACHES).

PUBLICATION DATE: JULY 17, 2020
EXPIRATION DATE: AUGUST 16, 2020

COMMENT SUBMITTED AUGUST 15, 2020

TO WHOM IT MAY CONCERN

We the undersigned hereby declare and make it known that this project is unwelcomed by the property, landowners and residents of the area on Arnold Hill Road, for the impact that will have on the quality of life and property values in the area.

On February 20, 2020, before the problems with covid-19, we attended a meeting and submitted a verbal opinion and letter in regards to this issue. Questions were raised and no answers were given. Covid-19 having pushed most of the local population into forced quarantines and limited social contact, it's been impossible to gather and discuss this matter again. The 30 day after the date of publication for public comment is not only insufficient but comes across as a maneuver to get a project questioned by many rammed through and approved when affected parties have no way and not enough time to react. This is unacceptable!

Regardless, we try to do our best always to stay ahead of the problems we face. We contacted local area residents and property owners, to try and get some feedback from them. What we learned in addition to the concerns already expressed past February shows that the situation is even worse than we thought.

It is a fact known to all that the airport is underutilized, but that there are 2 to 3 wealthy individuals who have very large airplanes, and who would like to have better IFR minimums. The airport is used mainly for recreational purposes and has no true public benefit. This seems to be the main, if not the only reason why we are facing the present situation.

As stated and asked in our first opinion last February, why is the information being disseminated misleading? Why is clearly fake information being given to the public? For what reason? A newspaper report mentioning "8560 total operations for 2019," is nothing

more than a blatant lie. That would amount to 23 + airplanes and/or helicopters taking off and landing everyday, which, obviously never happens, not in any single day, let alone every day of the year!

Projects that affect the general public should be transparent, yet, there is no transparency in a project such as this and most people have not been approached, their opinions heard, their concerns addressed in a satisfactory manner.

Property owners have been threatened with the use of eminent domain; its use, in this case, is clearly and irrefutably an abuse, and not justified. This is NOT a public benefit project. To the questions asked in February, we never received an answer: In what way does this project benefit the local community? Who is truly benefiting from this project? It is the general opinion that some very resourceful people, who own private jets, lobbied for this to go ahead? Is that true? What compensation will affected property owners receive? None of these concerns were addressed. Public meetings and public comments are of absolutely no use if they are held only because "the law requires it" but there is no dialogue and they serve no purpose.

One can certainly ask, "Is it all part then of the same lack of transparency and concerted effort to disseminate fake information?" It would seem so!

From all we heard, it also seems to be general public knowledge that the airport is poorly managed, by folks who maybe try their best, but who know very little about air facility management, that apparently being one of the main reasons why it needs an influx of federal funds every five years or so.

From contacts made with local residents, we learned that 10 years ago the airport bought the little knoll between Cupps and Pegasus Farm Campground. The house standing there was bulldozed and all the trees were cut. Many of Pegasus Farm Campground trees were topped. The landscaping was literally ruined. As a result, perennial gardens and other projects were abandoned as no longer viable.

Five years ago a swath of Forest was cut directly up from Pegasus Campground, bordering Chenoweth Creek. Even though federal grants state that such operations must be followed by clean up, that was never done. The result? Years of problems resulting from log jams; a flood cost the Pegasus Farm Campground owners thousands of dollars. Pegasus Campground is in a no-flood zone and the owners were unaware of the log jam that created the flood. Each year thereafter, there was a need to monitor the trees building up in the bend of the creek to ensure that a flood would not occur again. No one cared to fix the problem, of course, and the problem went on for years. The airport, that basically is nothing else but a handful of people's private playground, even if it bears the name of the City of Elkins and our Randolph County, treated it as a non-issue. Serious environmental damage was caused that no one seemed to make the least effort to mitigate!

So again, it's pertinent to ask: who does this project benefit? Is it ok to toy with and ruin peoples' lives, devalue their properties, abuse the use of eminent domain under the guise of this being for the public benefit and it obviously is not?

Other issues that must be raised include the integrity and well being of the lives of local residents, because of increased noise and air pollution, an issue that we also raised during the meeting last February.

Once again, we, the undersigned, state that we vehemently oppose this project and see no public benefit whatsoever in it, very much the contrary, and believe it should be abandoned!

We, the undersigned:

Signature	Name/Address
	Joao Barroso, 1056 Arnold Hill Rd. Elkins, WV 26241
	Sasha Barroso, 1056 Arnold Hill Rd. Elkins, WV 26241
	Noah Barroso, 1056 Arnold Hill Rd. Elkins, WV 26241
	Nayo Barroso, 1056 Arnold Hill Rd. Elkins, WV 26241
	Mark Branciarolli , 624 Arnold Hill Rd, Elkins, WV 26241
	Bonnie Branciarolli, 624 Arnold Hill Rd, Elkins, WV 26241

Mina and Bud Capp	Mina and Bud Capp 820 Arnold Hill Rd.
Michael and Stephanie Coberly	Michael & Stephanie Coberly 1046 Arnold Hill Road
Beverly Fortney	Beverly Fortney 1094 Arnold Hill Road Elkins, WV 26241
Vicki & Cutright	Robert & Vicki Cutright 1089 Arnold Hill Road Elkins WV 26241
Jeff Fields	Jeff Fields 1130 Arnold Hill Rd Elkins WV 26241
Marlene McCauley	MARLENE McCAULEY 1130 ARNOLD HILL RD ELKINS, WV 26241
Jay Moore	Jay Moore 1126 Arnold Hill Rd 26241
Robert Lambert Sennie Lambert	81 Wiseman Lane Elkins, WV 26241
Justin Irons	1289 Arnold Hill Rd Elkins, WV 26241
Renee Westfall Jim Westfall	1300 Arnold Hill Rd Elkins, WV 26241

Harry Capp III	Harry Capp 749 Arnold Hill Rd.
Adam Ware	Adam Ware 596 country club, Rd
Tara Snitmyer	12 Snitmyer Lane Elkins

Submitted to:

Airport Manager
Manager@elkinsairport.com
Elkins-Randolph C. Regional Airport
400 Airport Rd.
Elkins, WV 26241

Melissa Defibaugh, PE
MDefidaugh@chaptech.com
Chapman Techincal Group
43 East Main Street
Buckhannon, WV 26201

Susan Stafford, Environmental Protection Specialist
Susan.Stafford@faa.gov
Beckley Airports Field Office
176 Airport Circle, Rm 101
Beaver, WV 25813

The Intermountain
Editorial — newsroom@theintermountain.com
Executive Editor: Brad Johnson, bjohnson@theintermountain.com
News Editor: Joey Kittle, jkittle@theintermountain.com
Reporter: Anthony Gaynor, agaynor@theintermountain.com
Reporter: Edgar Kelley, ekelley@theintermountain.com

West Virginia Department of
ARTS, CULTURE
AND HISTORY

The Culture Center
1900 Kanawha Blvd., E.
Charleston, WV 25305-0300

Randall Reid-Smith, Curator
Phone 304.558.0220 • www.wvculture.org
Fax 304.558.2779 • TDD 304.558.3562
EEO/AA Employer

August 4, 2020

Ms. Melissa A. Defibaugh, PE
Chapman Technical Group
43 East Main Street
Buckhannon, WV 26201
(MDefibaugh@chaptech.com)

RE: Elkins-Randolph County Regional Airport – Obstruction Removal (Runway 5-23 Approaches)
FR#: 16-984-RD-4

Dear Ms. Defibaugh:

We have reviewed the revised draft Short Environmental Assessment Form that has been prepared for the above referenced project. As required by Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations, 36 CFR 800: "Protection of Historic Properties," we submit our comments.

According to the submitted information, the Elkins-Randolph County Regional Airport Authority proposes to undertake an obstruction removal project in the approach surfaces of Runways 5 and 23 at the Elkins-Randolph County Regional Airport. The project will consist of clearing 16.14 acres of trees, trimming 12.37 acres of trees, removing two obstruction light structures, and lowering the top elevation of three silos. Permanent Avigation easements will also be acquired by the Airport Authority to aid in the obstruction removal efforts. All disturbed areas will be reclaimed at the conclusion of the project.

Architectural Resources:
We have reviewed the revised project plans, and we note that the overall project areas are essentially the same as the earlier submissions. Therefore, we remain in concurrence with our findings in our review letters dated March 30, 2017, January 4, 2018, and February 24, 2020, that the proposed project will affect no architectural properties eligible for or included in the National Register of Historic Places. No further consultation is necessary regarding architectural resources; however, we ask that you contact our office if your project should change.

Archaeological Resources:
As noted in the revised Environmental Assessment, a majority of the proposed project area underwent a Phase I archaeological survey in 2017. No previously documented archaeological resources are located within the proposed project area. After reviewing the current information, we remain in concurrence with our prior March 30, 2017, January 4, 2018, and February 24, 2020 recommendations that the proposed project will have no effect on archaeological historic properties. No further consultation is necessary regarding archaeological resources.

We appreciate the opportunity to be of service. *If you have questions regarding our comments or the Section 106 process, please contact Benjamin M. Riggle, Structural Historian, or Carolyn M. Kender, Archaeologist, at (304) 558-0240.*

Sincerely,

Susan M. Pierce
Deputy State Historic Preservation Officer

SMP/CMK/BMR

CC: Ms. Susan Stafford, FAA (susan.stafford@faa.gov)

Attachment 2

Paperwork Reduction Act Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 2120-0015. Public reporting for this collection of information is estimated to be approximately 60 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are mandatory per 49 USC 329(b) and U.S. Code Title 49 Section 47130. The data is critical to aviation safety and will be published in flight information handbooks and charts for pilot use. The data is also necessary for airspace studies conducted under 49 USC 329(b). The data is public in nature and is the agency's source for the information used in aeronautical charts and flight information publications. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177-1524.

OMB CONTROL NUMBER: 2120-0015
EXPIRATION DATE: 8/31/2019

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

AIRPORT MASTER RECORD

PRINT DATE: 03/12/2020
AFD EFF 02/27/2020
FORM APPROVED OMB 2120-0015

> 1 ASSOC CITY:	ELKINS	4 STATE: WV	LOC ID: EKN	FAA SITE NR:	26627.*A
> 2 AIRPORT NAME:	ELKINS-RANDOLPH CO-JENNINGS RANDOLPH FLD		5 COUNTY: RANDOLPH, WV		
3 CBD TO AIRPORT (NM): 2 S		6 REGION/ADO: AEA /BKW	7 SECT AERO CHT: CINCINNATI		

GENERAL

10 OWNERSHIP:	PUBLIC
> 11 OWNER:	ELKINS-RANDOLPH CO RGNL ARPT AUTH
> 12 ADDRESS:	400 AIRPORT RD
	ELKINS, WV 26241
> 13 PHONE NR:	304-636-2726
> 14 MANAGER:	MARY ALICE RICOTTILLI
> 15 ADDRESS:	400 AIRPORT RD
	ELKINS, WV 26241
> 16 PHONE NR:	304-636-2726

> 17 ATTENDANCE SCHEDULE:

MONTHS	DAYS	HOURS
ALL	ALL	0830-1700

18 AIRPORT USE:	PUBLIC
19 ARPT LAT:	38-53-22N ESTIMATED
20 ARPT LONG:	79-51-25.7W
21 ARPT ELEV:	1987.2 SURVEYED
22 ACREAGE:	227
> 23 RIGHT TRAFFIC:	NO
> 24 NON-COMM LANDING:	NO
25 NPIAS/FED AGREEMENTS:	NGY
> 26 FAR 139 INDEX:	/

SERVICES

> 70 FUEL:	100LL A
> 71 AIRFRAME RPRS:	
> 72 PWR PLANT RPRS:	
> 73 BOTTLE OXYGEN:	NONE
> 74 BULK OXYGEN:	NONE
75 TSNT STORAGE:	HGR TIE
76 OTHER SERVICES:	INSTR

FACILITIES

> 80 ARPT BCN:	CG
> 81 ARPT LGT SKED:	SEE RMK
BCN LGT SKED:	SS-SR
> 82 UNICOM:	
> 83 WIND INDICATOR:	YES-L
84 SEGMENTED CIRCLE:	NONE
85 CONTROL TWR:	NO
86 FSS:	ELKINS
87 FSS ON ARPT:	NO
88 FSS PHONE NR:	703-724-4288
89 TOLL FREE NR:	1-800-WX-BRIEF

BASED AIRCRAFT

90 SINGLE ENG:	19
91 MULTI ENG:	4
92 JET:	1
TOTAL:	24
93 HELICOPTERS:	0
94 GLIDERS:	0
95 MILITARY:	0
96 ULTRA-LIGHT:	0

OPERATIONS

100 AIR CARRIER:	0
102 AIR TAXI:	0
103 G A LOCAL:	7,000
104 G A ITNRNT:	3,000
105 MILITARY:	500
TOTAL:	10,500

OPERATIONS FOR 12 MONTHS ENDING 12/31/2017

RUNWAY DATA

		14/32	05/23	00X
> 30 RUNWAY IDENT:				
> 31 LENGTH:		4,544	4,501	0
> 32 WIDTH:		140	75	0
> 33 SURF TYPE-COND:		ASPH-G	ASPH-G	-
> 34 SURF TREATMENT:				
35 GROSS WT:	S	10.0	28.0	
36 (IN THSDS)	D		35.0	
37	2D		56.0	
38	2D/2DS			
> 39 PCN:		////	////	////
LIGHTING/APCH AIDS				
> 40 EDGE INTENSITY:			MED	
> 42 RWY MARK TYPE-COND:		BSC- / BSC-	NPI- G / NPI- G	-
> 43 VGSI:		/	/ P2L	
44 THR CROSSING HGT:		/	/ 45	
45 VISUAL GLIDE ANGLE:		/	/ 5.00	
> 46 CNTRLN-TDZ:		- / -	- / -	-
> 47 RVR-RVV:		- / -	- / -	-
> 48 REIL:		N / N	N / Y	
> 49 APCH LIGHTS:		/	/	
OBSTRUCTION DATA				
50 FAR 77 CATEGORY:		C / B(V)	C / C	
> 51 DISPLACED THR:		/ 1390	154 /	
> 52 CTLG OBSTN:		BRUSH / TREES	TREES / ANT	
> 53 OBSTN MARKED/LGTD:		/	/ L	
> 54 HGT ABOVE RWY END:		14 / 80	40 / 258	
> 55 DIST FROM RWY END:		290 / 280	201 / 2,135	0
> 56 CNTRLN OFFSET:		76L / 100R	150L/R / 480R	
57 OBSTN CLNC SLOPE:		6:1 / 0:1	0:1 / 7:1	
58 CLOSE-IN OBSTN:		N / Y	Y / N	N
DECLARED DISTANCES				
> 60 TAKE OFF RUN AVBL (TORA):		/	/	/
> 61 TAKE OFF DIST AVBL (TODA):		/	/	/
> 62 ACLT STOP DIST AVBL (ASDA):		/	/	/
> 63 LNDG DIST AVBL (LDA):		/	/	/

(>) ARPT MGR PLEASE ADVISE FSS IN ITEM 86 WHEN CHANGES OCCUR TO ITEMS PRECEDED BY >

> 110 REMARKS:

A 030 RWY 00X THIS RUNWAY EXISTS TO SUPPORT THE OUW LDA/DME ASSOCIATED WITH THIS AIRPORT.
A 042 RWY 32 MKGS FADED-BARELY VISIBLE.
A 042 RWY 14 MKGS FADED-BARELY VISIBLE.
A 043 RWY 23 PAPI NON-STD 5 DEG GA.
A 048 RWY 23 NSTD OMNI-DIRECTIONAL REIL.
A 057 RWY 05 ANT ON HILL, 1/2 MILE NE, 480 R OF CNTRLN; 86 FT ANT, 850 FM RWY END, 190 FT S OF CNTRLN, APCH SLOPE 8:1 AT RY END, 12:1 AT DSPLCD THLD.
A 057 RWY 32 70 FT TREES, DIST 850 FT, 0B, 14:1 BASED ON DSPLCD THLD.

111 INSPECTOR: (C) 112 LAST INSP: 07/06/2018 113 LAST INFO REQ:

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

AIRPORT MASTER RECORD

PRINT DATE: 03/12/2020
AFD EFF 02/27/2020
FORM APPROVED OMB 2120-0015

> 1 ASSOC CITY:	ELKINS	4 STATE: WV	LOC ID: EKN	FAA SITE NR:	26627.*A
> 2 AIRPORT NAME:	ELKINS-RANDOLPH CO-JENNINGS RANDOLPH FLD		5 COUNTY: RANDOLPH, WV		
3 CBD TO AIRPORT (NM): 2 S		6 REGION/ADO: AEA /BKW	7 SECT AERO CHT: CINCINNATI		

GENERAL

10 OWNERSHIP:	PUBLIC
> 11 OWNER:	ELKINS-RANDOLPH CO RGNL ARPT AUTH
> 12 ADDRESS:	400 AIRPORT RD
	ELKINS, WV 26241
> 13 PHONE NR:	304-636-2726
> 14 MANAGER:	MARY ALICE RICOTTILLI
> 15 ADDRESS:	400 AIRPORT RD
	ELKINS, WV 26241
> 16 PHONE NR:	304-636-2726

> 17 ATTENDANCE SCHEDULE:

MONTHS	DAYS	HOURS
ALL	ALL	0830-1700

18 AIRPORT USE:	PUBLIC
19 ARPT LAT:	38-53-22N ESTIMATED
20 ARPT LONG:	79-51-25.7W
21 ARPT ELEV:	1987.2 SURVEYED
22 ACREAGE:	227
> 23 RIGHT TRAFFIC:	NO
> 24 NON-COMM LANDING:	NO
25 NPIAS/FED AGREEMENTS:	NGY
> 26 FAR 139 INDEX:	/

SERVICES

> 70 FUEL:	100LL A
> 71 AIRFRAME RPRS:	
> 72 PWR PLANT RPRS:	
> 73 BOTTLE OXYGEN:	NONE
> 74 BULK OXYGEN:	NONE
75 TSNT STORAGE:	HGR TIE
76 OTHER SERVICES:	INSTR

FACILITIES

> 80 ARPT BCN:	CG
> 81 ARPT LGT SKED:	SEE RMK
BCN LGT SKED:	SS-SR
> 82 UNICOM:	
> 83 WIND INDICATOR:	YES-L
84 SEGMENTED CIRCLE:	NONE
85 CONTROL TWR:	NO
86 FSS:	ELKINS
87 FSS ON ARPT:	NO
88 FSS PHONE NR:	703-724-4288
89 TOLL FREE NR:	1-800-WX-BRIEF

BASED AIRCRAFT

90 SINGLE ENG:	19
91 MULTI ENG:	4
92 JET:	1
TOTAL:	24
93 HELICOPTERS:	0
94 GLIDERS:	0
95 MILITARY:	0
96 ULTRA-LIGHT:	0

OPERATIONS

100 AIR CARRIER:	0
102 AIR TAXI:	0
103 G A LOCAL:	7,000
104 G A ITNRNT:	3,000
105 MILITARY:	500
TOTAL:	10,500

OPERATIONS FOR 12 MONTHS ENDING 12/31/2017

RUNWAY DATA

> 30 RUNWAY IDENT:
> 31 LENGTH:
> 32 WIDTH:
> 33 SURF TYPE-COND:
> 34 SURF TREATMENT:
35 GROSS WT: S
36 (IN THSDS) D
37 2D
38 2D/2DS
> 39 PCN:

LIGHTING/APCH AIDS

> 40 EDGE INTENSITY:
> 42 RWY MARK TYPE-COND:
> 43 VGSI:
44 THR CROSSING HGT:
45 VISUAL GLIDE ANGLE:
> 46 CNTRLN-TDZ:
> 47 RVR-RVV:
> 48 REIL:
> 49 APCH LIGHTS:

OBSTRUCTION DATA

50 FAR 77 CATEGORY:
> 51 DISPLACED THR:
> 52 CTLG OBSTN:
> 53 OBSTN MARKED/LGTD:
> 54 HGT ABOVE RWY END:
> 55 DIST FROM RWY END:
> 56 CNTRLN OFFSET:
57 OBSTN CLNC SLOPE:
58 CLOSE-IN OBSTN:

DECLARED DISTANCES

> 60 TAKE OFF RUN AVBL (TORA):
> 61 TAKE OFF DIST AVBL (TODA):
> 62 ACLT STOP DIST AVBL (ASDA):
> 63 LNDG DIST AVBL (LDA):

(>) ARPT MGR PLEASE ADVISE FSS IN ITEM 86 WHEN CHANGES OCCUR TO ITEMS PRECEDED BY >

> 110 REMARKS:

A 058	RWY 05 25 FT LIGHTED OBSTRUCTION POLES; 190 FT FROM RWY END; 250' RT; 30 FT TREES, 0-200 FT DSTC.
A 058	RWY 32 +5 FT GND AT THLD 110 FT L, 20 FT BLDG., 0-20 FT DSTC, 156 FT L; 61 FT TREES, 179 FT DSTC, 248 R.
A 070	24HR SELF SERVICE 100LL
A 070	24HR SELF SERVICE JET A
A 075	TIE DOWN FEE FOR OVERNIGHT. WAIVED W/FUEL PURCHASE.
A 081	ACTVT MIRL RY 05/23 & REIL RY 23 - 122.9.
A 110-001	UNCONTROLLED VEHICULAR TFC CROSSES THR RY 32.

111 INSPECTOR: (C) 112 LAST INSP: 07/06/2018 113 LAST INFO REQ:

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

AIRPORT MASTER RECORD

PRINT DATE: 03/12/2020
AFD EFF 02/27/2020
FORM APPROVED OMB 2120-0015

> 1 ASSOC CITY:	ELKINS	4 STATE: WV	LOC ID: EKN	FAA SITE NR:	26627.*A
> 2 AIRPORT NAME:	ELKINS-RANDOLPH CO-JENNINGS RANDOLPH FLD		5 COUNTY: RANDOLPH, WV		
3 CBD TO AIRPORT (NM): 2 S		6 REGION/ADO: AEA /BKW	7 SECT AERO CHT: CINCINNATI		

GENERAL

10 OWNERSHIP:	PUBLIC
> 11 OWNER:	ELKINS-RANDOLPH CO RGNL ARPT AUTH
> 12 ADDRESS:	400 AIRPORT RD ELKINS, WV 26241
> 13 PHONE NR:	304-636-2726
> 14 MANAGER:	MARY ALICE RICOTTILLI
> 15 ADDRESS:	400 AIRPORT RD ELKINS, WV 26241
> 16 PHONE NR:	304-636-2726

> 17 ATTENDANCE SCHEDULE:

MONTHS	DAYS	HOURS
ALL	ALL	0830-1700

18 AIRPORT USE:	PUBLIC
19 ARPT LAT:	38-53-22N ESTIMATED
20 ARPT LONG:	79-51-25.7W
21 ARPT ELEV:	1987.2 SURVEYED
22 ACREAGE:	227
> 23 RIGHT TRAFFIC:	NO
> 24 NON-COMM LANDING:	NO
25 NPIAS/FED AGREEMENTS:	NGY
> 26 FAR 139 INDEX:	/

SERVICES

> 70 FUEL:	100LL A
> 71 AIRFRAME RPRS:	
> 72 PWR PLANT RPRS:	
> 73 BOTTLE OXYGEN:	NONE
> 74 BULK OXYGEN:	NONE
75 TSNT STORAGE:	HGR TIE
76 OTHER SERVICES:	INSTR

FACILITIES

> 80 ARPT BCN:	CG
> 81 ARPT LGT SKED:	SEE RMK
BCN LGT SKED:	SS-SR
> 82 UNICOM:	
> 83 WIND INDICATOR:	YES-L
84 SEGMENTED CIRCLE:	NONE
85 CONTROL TWR:	NO
86 FSS:	ELKINS
87 FSS ON ARPT:	NO
88 FSS PHONE NR:	703-724-4288
89 TOLL FREE NR:	1-800-WX-BRIEF

BASED AIRCRAFT

90 SINGLE ENG:	19
91 MULTI ENG:	4
92 JET:	1
TOTAL:	24
93 HELICOPTERS:	0
94 GLIDERS:	0
95 MILITARY:	0
96 ULTRA-LIGHT:	0

OPERATIONS

100 AIR CARRIER:	0
102 AIR TAXI:	0
103 G A LOCAL:	7,000
104 G A ITNRNT:	3,000
105 MILITARY:	500
TOTAL:	10,500

OPERATIONS FOR 12 MONTHS ENDING 12/31/2017

RUNWAY DATA

> 30 RUNWAY IDENT:
> 31 LENGTH:
> 32 WIDTH:
> 33 SURF TYPE-COND:
> 34 SURF TREATMENT:
35 GROSS WT: S
36 (IN THSDS) D
37 2D
38 2D/2DS
> 39 PCN:

LIGHTING/APCH AIDS

> 40 EDGE INTENSITY:
> 42 RWY MARK TYPE-COND:
> 43 VGSI:
44 THR CROSSING HGT:
45 VISUAL GLIDE ANGLE:
> 46 CNTRLN-TDZ:
> 47 RVR-RVV:
> 48 REIL:
> 49 APCH LIGHTS:

OBSTRUCTION DATA

50 FAR 77 CATEGORY:
> 51 DISPLACED THR:
> 52 CTLG OBSTN:
> 53 OBSTN MARKED/LGTD:
> 54 HGT ABOVE RWY END:
> 55 DIST FROM RWY END:
> 56 CNTRLN OFFSET:
57 OBSTN CLNC SLOPE:
58 CLOSE-IN OBSTN:

DECLARED DISTANCES

> 60 TAKE OFF RUN AVBL (TORA):
> 61 TAKE OFF DIST AVBL (TODA):
> 62 ACLT STOP DIST AVBL (ASDA):
> 63 LNDG DIST AVBL (LDA):

(>) ARPT MGR PLEASE ADVISE FSS IN ITEM 86 WHEN CHANGES OCCUR TO ITEMS PRECEDED BY >

> 110 REMARKS:

A 110-004 DEER ON & INVOF ARPT.
A 110-005 DEPRESSED DRAINAGE INLETS ON RYS 10 FT INBOARD FROM EDGES 2-12 INCHES DEEP RYS 05/23 & 14/32.
A 110-006 TOWER 100 FT AGL 500 FT SW RY 32.
A 110-007 FOR AFTR HRS SERV. CALL 304-636-2726 MGR OFC DURING BUS. HRS.
A 110-008 COLD TEMPERATURE RESTRICTED AIRPORT. ALTITUDE CORRECTION REQUIRED AT OR BELOW -17C.
A 110-009 RWY 23, 68 FT ATHLETIC FIELD LGTS, 550 FT S OF RWY CL.
A 110-010 RWY 32 END, 157 FT TREES, 0-213 FM RWY END, 220 L.

111 INSPECTOR: (C) 112 LAST INSP: 07/06/2018 113 LAST INFO REQ:

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

AIRPORT MASTER RECORD

PRINT DATE: 03/12/2020
AFD EFF 02/27/2020
FORM APPROVED OMB 2120-0015

> 1 ASSOC CITY:	ELKINS	4 STATE: WV	LOC ID: EKN	FAA SITE NR: 26627.*A
> 2 AIRPORT NAME:	ELKINS-RANDOLPH CO-JENNINGS RANDOLPH FLD		5 COUNTY: RANDOLPH, WV	
3 CBD TO AIRPORT (NM): 2 S		6 REGION/ADO: AEA /BKW	7 SECT AERO CHT: CINCINNATI	

GENERAL

10 OWNERSHIP:	PUBLIC
> 11 OWNER:	ELKINS-RANDOLPH CO RGNL ARPT AUTH
> 12 ADDRESS:	400 AIRPORT RD
	ELKINS, WV 26241
> 13 PHONE NR:	304-636-2726
> 14 MANAGER:	MARY ALICE RICOTTILLI
> 15 ADDRESS:	400 AIRPORT RD
	ELKINS, WV 26241
> 16 PHONE NR:	304-636-2726

> 17 ATTENDANCE SCHEDULE:

MONTHS	DAYS	HOURS
ALL	ALL	0830-1700

18 AIRPORT USE:	PUBLIC
19 ARPT LAT:	38-53-22N ESTIMATED
20 ARPT LONG:	79-51-25.7W
21 ARPT ELEV:	1987.2 SURVEYED
22 ACREAGE:	227
> 23 RIGHT TRAFFIC:	NO
> 24 NON-COMM LANDING:	NO
25 NPIAS/FED AGREEMENTS:	NGY
> 26 FAR 139 INDEX:	/

SERVICES

> 70 FUEL:	100LL A
> 71 AIRFRAME RPRS:	
> 72 PWR PLANT RPRS:	
> 73 BOTTLE OXYGEN:	NONE
> 74 BULK OXYGEN:	NONE
75 TSNT STORAGE:	HGR TIE
76 OTHER SERVICES:	INSTR

FACILITIES

> 80 ARPT BCN:	CG
> 81 ARPT LGT SKED:	SEE RMK
BCN LGT SKED:	SS-SR
> 82 UNICOM:	
> 83 WIND INDICATOR:	YES-L
84 SEGMENTED CIRCLE:	NONE
85 CONTROL TWR:	NO
86 FSS:	ELKINS
87 FSS ON ARPT:	NO
88 FSS PHONE NR:	703-724-4288
89 TOLL FREE NR:	1-800-WX-BRIEF

BASED AIRCRAFT

90 SINGLE ENG:	19
91 MULTI ENG:	4
92 JET:	1
TOTAL:	24
93 HELICOPTERS:	0
94 GLIDERS:	0
95 MILITARY:	0
96 ULTRA-LIGHT:	0

OPERATIONS

100 AIR CARRIER:	0
102 AIR TAXI:	0
103 G A LOCAL:	7,000
104 G A ITNRNT:	3,000
105 MILITARY:	500
TOTAL:	10,500

OPERATIONS FOR 12 MONTHS ENDING 12/31/2017

RUNWAY DATA

> 30 RUNWAY IDENT:
> 31 LENGTH:
> 32 WIDTH:
> 33 SURF TYPE-COND:
> 34 SURF TREATMENT:

35 GROSS WT:	S
36 (IN THSDS)	D
37	2D
38	2D/2DS

> 39 PCN:

LIGHTING/APCH AIDS

> 40 EDGE INTENSITY:
> 42 RWY MARK TYPE-COND:
> 43 VGSI:
44 THR CROSSING HGT:
45 VISUAL GLIDE ANGLE:
> 46 CNTRLN-TDZ:
> 47 RVR-RVV:
> 48 REIL:
> 49 APCH LIGHTS:

OBSTRUCTION DATA

50 FAR 77 CATEGORY:
> 51 DISPLACED THR:
> 52 CTLG OBSTN:
> 53 OBSTN MARKED/LGTD:
> 54 HGT ABOVE RWY END:
> 55 DIST FROM RWY END:
> 56 CNTRLN OFFSET:
57 OBSTN CLNC SLOPE:
58 CLOSE-IN OBSTN:

DECLARED DISTANCES

> 60 TAKE OFF RUN AVBL (TORA):
> 61 TAKE OFF DIST AVBL (TODA):
> 62 ACLT STOP DIST AVBL (ASDA):
> 63 LNDG DIST AVBL (LDA):

(>) ARPT MGR PLEASE ADVISE FSS IN ITEM 86 WHEN CHANGES OCCUR TO ITEMS PRECEDED BY >

> 110 REMARKS:

A 110-011 FOR CD IF UNA TO CTC ON FSS FREQ, CTC WASHINGTON ARTCC AT 703-771-3587.

111 INSPECTOR: (C) 112 LAST INSP: 07/06/2018 113 LAST INFO REQ:

Attachment 3

U.S. Department
of Transportation
**Federal Aviation
Administration**

Report to Congress
National Plan of Integrated Airport Systems (NPIAS)

2019-2023



Cover Photographs

Snohomish County (Paine Field), Washington
Terminal building in Tennessee
Orange County Airport, Texas



Federal Aviation Administration
U.S. Department of Transportation

National Plan of Integrated Airport Systems (NPIAS) 2019–2023

Report of the Secretary of Transportation to the United States Congress
Pursuant to Title 49 U.S. Code, Section 47103

The NPIAS 2019–2023 report will be available online at: NPIAS Report to Congress

THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

September 26, 2018

The Honorable Michael R. Pence
President of the Senate
Washington, DC 20510

Dear Mr. President:

Enclosed is the National Plan of Integrated Airport Systems (NPIAS) report for 2019-2023, pursuant to Title 49 U.S. Code, Section 47103, which requires the Secretary of Transportation to submit this report to Congress every 2 years.

The NPIAS report estimates the costs associated with establishing a system of airports that adequately meets the needs of civil aviation and supports the U.S. Department of Defense and the U.S. Postal Service. It draws selectively from local, regional, and State planning studies.

A similar letter has been sent to the Speaker of the U.S. House of Representatives.

Sincerely,

Elaine L. Chao

Enclosure

THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

September 26, 2018

The Honorable Paul D. Ryan
Speaker of the House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

Enclosed is the National Plan of Integrated Airport Systems (NPIAS) report for 2019-2023, pursuant to Title 49 U.S. Code, Section 47103, which requires the Secretary of Transportation to submit this report to Congress every 2 years.

The NPIAS report estimates the costs associated with establishing a system of airports that adequately meets the needs of civil aviation and supports the U.S. Department of Defense and the U.S. Postal Service. It draws selectively from local, regional, and State planning studies.

A similar letter has been sent to the President of the Senate.

Sincerely,

Elaine L. Chao

Enclosure

TABLE OF CONTENTS

EXECUTIVE SUMMARY III
CHAPTER 1: AIRPORT SYSTEM COMPOSITION 1
Overview 1
Airports in the NPIAS 3
Primary Airports 5
Large Hubs (30) 5
Medium Hubs (31) 6
Small Hubs (72) 6
Nonhub Primary (247) 7
Nonprimary Airports 7
National (88) 8
Regional (492) 8
Local (1,278) 8
Basic (840) 9
Unclassified (243) 9
New Airports (7) 9
Conversion of Military Airfields and Use of Military/civil Airfields 10
Airport Privatization 10
CHAPTER 2: SYSTEM GOALS AND PERFORMANCE 13
Overview 13
DOT and faa Goals 13
Factors Indicating System Performance 13
Safety 14
Runway Safety 14
Maintaining Safe Airport Conditions 15
Runway Safety Areas (RSAs) 15
Runway Incursion Mitigation (RIM) 16
Wildlife Hazard Mitigation 16
Capacity 16
Congestion and Delay 17
Air Carrier On-Time Performance 18
Delay Indicators 18
Airport Capacity–A National Look 19
Alternative Capacity Enhancement Methods 20
Environmental Considerations 22
Noise 23
Air Quality 24
Water Quality 24
Environmental Streamlining 25
Runway Pavement Condition 25
Surface Accessibility 26
Financial Performance 26

CHAPTER 3: USE OF THE AIRPORT SYSTEM 31
Overview 31
Commercial Airline Service 31
Forecast for Commercial Aviation 33
Cargo 33
Forecast for Cargo 34
General Aviation 34
Forecast for General Aviation 36
Other Factors Impacting Airports 36
Large Aircraft 37
Industrial Aviation 37
Rural Aviation 38
Unmanned Aircraft Systems 38
Commercial Space Transportation 39
CHAPTER 4: DEVELOPMENT REQUIREMENTS 41
Capital Planning Overview 41
Development Costs 42
Development by Type 44
Safety and Security 45
Reconstruction 45
Standards 46
Environment 47
Noise 47
Terminal Building 48
Surface Access 48
Airport Capacity 49
New Airports 49
Other.. 49
Development by Airport Hub and Role 50
Anticipated Sources of Funding 51
Additional Costs Not Included in the NPIAS 52

APPENDIX A: List of NPIAS Airports with 5-Year Forecast Activity and Development Estimate

APPENDIX B: State Maps

APPENDIX C: Airport Criteria - Statutory and Policy Defintions

EXECUTIVE SUMMARY

The National Plan of Integrated Airport Systems (NPIAS) report for Fiscal Years (FY) 2019 to 2023 is submitted to Congress in accordance with title 49 United States Code (U.S.C.), section 47103. As required by the statute, the Federal Aviation Administration (FAA) "…shall maintain the plan for developing public-use airports in the United States." The statute also requires that:

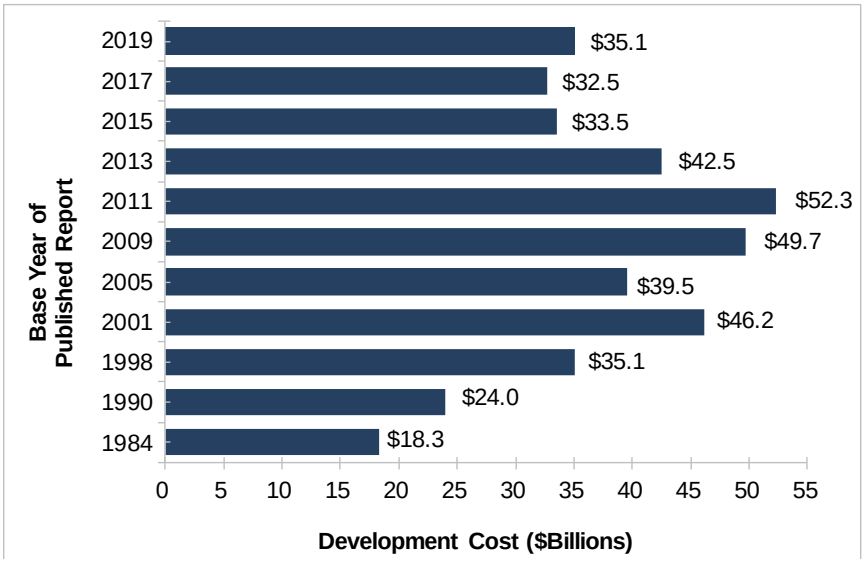
> "The plan shall include the kind and estimated cost of eligible airport development the Secretary of Transportation considers necessary to provide a safe, efficient, and integrated system of public-use airports adequate to anticipate and meet the needs of civil aeronautics, to meet the national defense requirements of the Secretary of Defense, and to meet identified needs of the United States Postal Service."

The FAA does not control which routes or airports the airlines serve. Nor does the FAA dictate or limit where privately owned aircraft can fly. Rather, the FAA's responsibility is to work with State and local units of government, as well as other stakeholders, to ensure effective planning of a safe and efficient system of airports to support the needs of the civil aviation industry.

Accordingly, this report identifies the airports included in the national airport system, the roles they currently serve, and the amounts and types of airport development eligible for Federal funding under the Airport Improvement Program (AIP) over the next 5 years. The FAA has been publishing the NPIAS since 1984.

This edition identifies 3,328 public-use airports[1] (3,321 existing and 7 proposed) that are important to national air transportation and estimates a need for approximately $35.1 billion in AIP-eligible airport projects between 2019 and 2023. This is an increase of $2.4 billion (7 percent) from the report issued 2 years ago. Figure 1 identifies total development costs from 1984-2019. These estimates reflect the costs at the time each report was prepared and do not reflect constant dollars. The development of primary and nonprimary airports continue to be based on

Figure 1: Development Totals, 1984-2019



[1]The word "airport," as identified in this report, includes landing areas developed for conventional fixed-wing aircraft, helicopters, and seaplanes.

eligible and justified needs and priorities consistent with the role of the airport in the national airport system.

Airport capital development needs are driven by current and forecasted traffic, use and age of facilities, and changing aircraft technology, which requires airports to update or replace equipment and infrastructure. Based on actual and projected aeronautical activity trends, AIP-eligible development needs are expected to increase at large and medium hubs and regional airports, but development needs at all other airport types are expected to increase more slowly or remain consistent with previous levels. Capacity-related development continues to decrease, while development to reconstruct pavement, bring an airport up to design standards, and expand or rehabilitate terminal buildings continue to increase. The increase in terminal projects reflected in this report is principally the result of projects at several large and medium hub airports.

After more than a decade, most major airport capacity projects and runway safety area (RSA) initiatives have successfully concluded. This included airport development to increase airport capacity, resulting in 23 major airports completing 27 airfield projects (new runways, runway extensions, or airfield reconfigurations), and to improve virtually all the nonstandard RSAs at commercial service airports to meet dimensional standards or an equivalent level of safety. A new national initiative to improve nonstandard surface geometry is now well underway to improve nonstandard airfield geometry to prevent runway incursions. While this report includes preliminary costs of almost $300 million through 2023 for this initiative, the next NPIAS report will more fully capture development costs as the FAA continues reviewing and refining solutions.

The FAA considers development included in the NPIAS in the Airports Capital Improvement Plan process. While all of these 5-year capital estimates are AIP-eligible, some may be funded by other sources, including Passenger Facility Charge (PFC) revenues or other airport revenue or financing. Funds for airport development are derived from a variety of sources, including Federal/State/local grants, bond proceeds, PFCs, airport-generated funds (landing and terminal fees, parking, aviation fuel, and concessions revenues), and tenant and third-party financing. The availability of funding sources (and their adequacy to meet needs) varies with each type of airport and levels of aeronautical activity.

Cost estimates in the NPIAS are obtained primarily from airport master and State system plans prepared by planning and engineering firms for airport sponsors and local and State aeronautical agencies. As these plans are typically funded in part by the FAA, the FAA ensures that they are consistent with FAA forecasts of aeronautical activity, follow FAA guidelines, and have been reviewed and accepted by FAA planners who are familiar with local conditions. Efforts were made to obtain realistic estimates of development needs that coincide with local and State capital improvement plans. The estimates only include development undertaken by airport sponsors (as opposed to nonpublic projects undertaken by airport tenants, such as airlines and air cargo operators). The development reflected in this report is based on planning documents and information available through 2017.

The NPIAS cost estimates are based upon planning estimates developed prior to design and full environmental evaluation, which may introduce additional costs. These development estimates

do not include contingency costs (increases in cost based on changes in design, construction uncertainty, or environmental mitigation) or normal price escalation due to inflation (annual increase in costs).

This report explains how the NPIAS supports the U.S. Department of Transportation's (DOT) and the FAA's goals of safety, infrastructure, innovation, and accountability. These goals are identified in chapter 2 of this report, which addresses the condition and performance of the national airport system, highlighting six topic areas: safety, capacity, environment, pavement condition, surface accessibility, and financial performance.

Overall, the findings are favorable, indicating the system is safe, convenient, and well maintained. For the largest and busiest airports, the majority of capital improvements are funded by nonfederal sources, such as airport revenues, bond proceeds and PFC revenues. Even for smaller airports, capital funding sources are diverse and well-leveraged. The majority of airports in the national airport system have adequate airport capacity and few delays. However, there are airports that consistently experience delays and a small percentage of airports that are seeing growing constraints in the terminal and landside areas.

This page is intentionally left blank.

CHAPTER 1: AIRPORT SYSTEM COMPOSITION

OVERVIEW

The national airport system, envisioned when civil aviation was in its infancy, has been developed and nurtured by close cooperation with airport sponsors and other local agencies, as well as Federal and State agencies. Airports are critical to the national transportation system and contribute to a productive national economy and international competitiveness. The enduring principles guiding Federal involvement in the national airport system were articulated more than 25 years ago and were subsequently reaffirmed by the FAA and the aviation industry in 2011 as part of the national review of the airport system. To meet the demand for air transportation, airports and the national airport system should have the following attributes:

- Airports should be safe and efficient, located where people will use them, and developed and maintained to appropriate standards;
- Airports should be affordable to both users and the Government, relying primarily on producing self-sustaining revenue and placing minimal burden on the general revenues of the local, State, and Federal Governments;
- Airports should be flexible and expandable and able to meet increased demand and accommodate new aircraft types;
- Airports should be permanent with assurance that they will remain open for aeronautical use over the long term;
- Airports should be compatible with surrounding communities, maintaining a balance between the needs of aviation, the environment, and the requirements of residents;
- Airports should be developed in concert with improvements to the air traffic control system and technological advancement;
- The airport system should support a variety of critical national objectives, such as defense, emergency readiness, law enforcement, and postal delivery; and
- The airport system should be extensive, providing as many people as possible with convenient access to air transportation, typically by having most of the population within 20 miles of a NPIAS airport.

In addition to the above listed principles, a guiding principle for Federal infrastructure investment, as stated in Executive Order 12893,[2] is that Federal investments should be cost beneficial.[3] This Executive Order also included other key principles that the FAA supports through its administration of the NPIAS, including support of State and local planning and information management systems; support for private sector participation; and support for effective administration of grant programs like AIP.

[2]Executive Order 12893, Principles for Federal Infrastructure Investments, was issued in the Federal Register on January 31, 1994, and has not been revoked. See: http://www.archives.gov/federal-register/executive-orders/pdf/12893.pdf.

[3]The FAA implements these principles by using program guidance to ensure the effective use of Federal aid. A national priority system guides the distribution of funds, supplemented when necessary, by specific requirements for additional analysis or justification. Moreover, virtually all development projects must be justified based on existing or reasonably anticipated civil aeronautical activity levels.

While the Nation's airports have evolved differently over the past decades, they are an integral part of U.S. lifestyle and commerce. Some airports are large in size and have multiple runways. Others are relatively small and may only need a short, single runway to serve a critical purpose. The role of an airport is not necessarily limited by its size, location, or facilities. Airports fulfill very diverse roles—from moving people and cargo and serving agricultural needs, to providing critical access to remote communities, including emergency medical services, to supporting private transportation using the smallest piston aircraft to the most sophisticated jets, and providing aeronautical access to manufacturers/assemblers and repair stations that support airlines and operators of all sizes in a global aerospace marketplace.

The latest statistics indicate 610,796 pilots, 213,050 active general aviation aircraft, and 18,203 air carrier aircraft utilize 19,627 landing areas, including private use (closed to the public) and public-use (open to the public) facilities. Listed below (Table 1) is the breakdown of private- and public-use landing areas in the United States by type of facility.

The FAA works closely with State aviation agencies and local planning organizations to identify public-use airports that are important to the system for inclusion in the NPIAS. About 65 percent (3,321) of the 5,099 public-use airports are included in the NPIAS. There are 1,778 existing public-use airports that are not included in the NPIAS, generally because they do not meet the minimum entry criteria,[4] are located at inadequate sites, cannot be expanded or improved to provide a safe and efficient airport, or are located within 20 miles of another NPIAS airport.

Table 1: Numbers and Types of Existing Airports in the United States (as of May 2018)

Type of Facility	Total U.S. Facilities	Private-Use Facilities	Public-Use Facilities	Existing NPIAS Facilities
Airport	13,117	8,302	4,815	3,273
Heliport	5,842	5,782	60	10
Seaplane Base	507	292	215	38
Ultralight	112	109	3	
Gliderport	35	30	5	
Balloonport	14	13	1	
Total	**19,627**	**14,528**	**5,099**	**3,321**

All commercial service airports[5] are included, and selected general aviation airports that meet requirements are included in the NPIAS. Ninety-eight percent of the facilities included in the NPIAS are airports. Throughout this report, the term "airport" includes landing areas developed for conventional fixed-wing aircraft, helicopters, and seaplanes.

The NPIAS report identifies the airports included in the national airport system, the roles they serve, and the amounts and types of AIP-eligible airport development needed over the next

[4]The NPIAS entry criteria is contained in FAA Order 5090.3C, Field Formulation of the National Plan of Integrated Airport Systems (NPIAS), available online at: http://www.faa.gov/regulations_policies/orders_notices/index.cfm/go/document.information/documentID/12754.

[5]Privately owned airports with scheduled air carrier service are not eligible for designation as a commercial service airport (i.e., Branson Airport in Branson, Missouri).

5 years. An airport must be included in the NPIAS to be eligible to receive a grant under the AIP. Because the capital development needs have historically exceeded available AIP resources, airport development needs included in the NPIAS may ultimately be funded by other funding sources, such as PFCs or other airport revenue or financing.

AIRPORTS IN THE NPIAS

The NPIAS contains 3,328 airports, including 3,321 existing and 7 proposed airports that are anticipated to open within the 5-year period covered by this report. The proposed airports are classified in the same categories as existing airports. Approximately 98 percent (3,249) of the NPIAS airports are owned by public entities (generally city, county or State) and 2 percent (72) are privately owned airports.

Airports are grouped by statute into two major categories: primary and nonprimary as shown in Figure 2 below. Primary airports are defined in the FAA's authorizing statute as public airports receiving scheduled air carrier service with 10,000 or more enplaned passengers per year. There are 380 primary airports based on calendar year (CY) 2016 data. Primary airports are further grouped into four categories defined in statute: large hub, medium hub, small hub, and nonhub.

Nonprimary airports primarily support general aviation aircraft. The nonprimary category includes nonprimary commercial service airports (public airports receiving scheduled passenger service and between 2,500 and 9,999 enplaned passengers per year), general aviation airports, and reliever[6] airports. There are 2,941 nonprimary airports. These airports are further grouped into five categories: national, regional, local, basic, and unclassified. Appendix C of this report contains the airport definitions contained in both statute and policy that are used in this report.

[6]The term "reliever" is defined in the FAA's authorizing statute at 49 U.S.C., section 47102, as "an airport the Secretary designates to relieve congestion at a commercial service airport and to provide more general aviation access to the overall community." The term "reliever" is relevant in a small number of contexts but is increasingly problematic because only a small number of commercial service airports still experience significant congestion. Regardless, because the term is still defined and used in statute, the FAA continues to report the current designations in this report.

Figure 2: NPIAS Airports by Category and Role

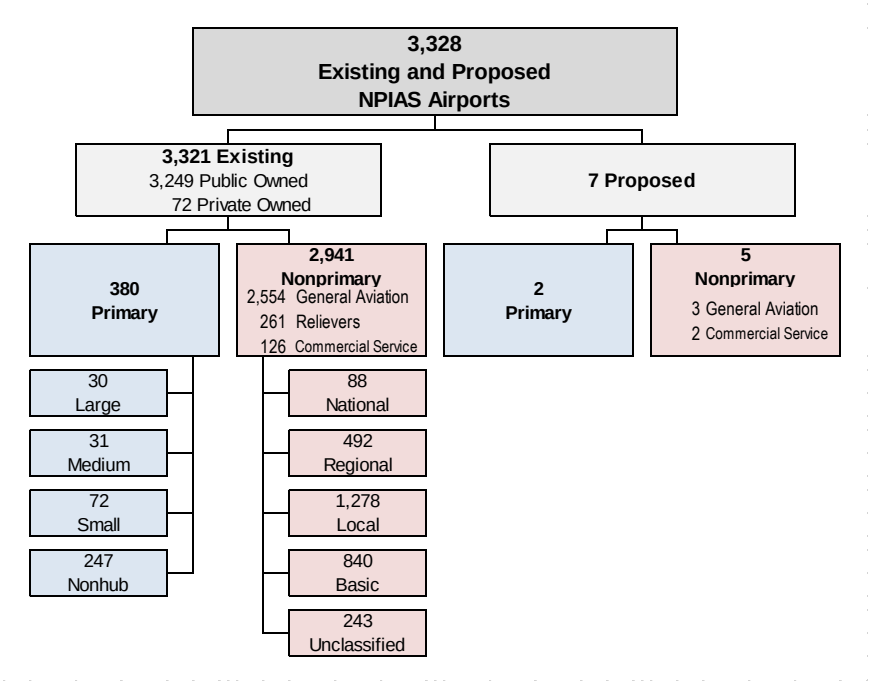


Table 2 reflects the number of existing NPIAS airports by category, as well as the percentage of enplanements, based aircraft, total aircraft operations, and total development.

Table 2: Activity and Development at NPIAS Airports

Number of Airports	Airport Category	Percentage of NPIAS Airports	Percentage of 2016 Total Enplanements[1]	Percentage of Aircraft Based at NPIAS Airports[2]	Percentage of Total Aircraft Operations	Percentage of NPIAS Cost[3]
30	Large Hub	1	72.48	0	13.1	23.5
31	Medium Hub	1	15.87	1.7	4.9	10.5
72	Small Hub	2	8.21	4.8	6.9	11.9
247	Nonhub	7	3.26	10.2	10.7	15.2
380	**Primary Subtotal**	**11**	**99.83**	**16.7**	**35.6**	**61.1**
88	National	3		10.5	8.4	5.3
492	Regional	14		22.3	24.5	12.1
1,278	Local	40		21.3	23.2	14.5
840	Basic	25		3.4	5.9	6.2
243	Unclassified	7		1.1	2.3	0.03
2,941	**Nonprimary Subtotal**	**89**	**0.13**	**58.6**	**64.3**	**38.1**
3,321	**Total NPIAS Airports**	**100**	**99.96**	**75.3**	**100**	**99.2**

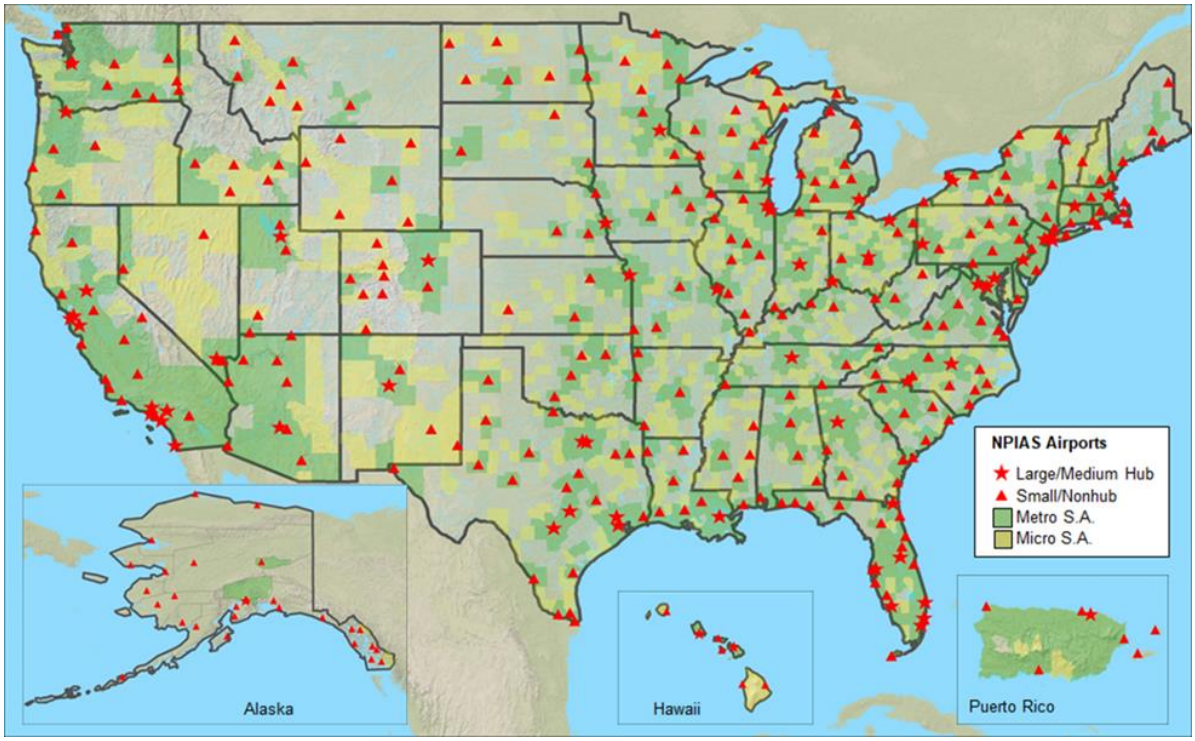
[1]The 126 nonprimary commercial service airports account for 0.07 percent of enplanements. The 2,815 nonprimary airports account for 0.06 percent of enplanements. The remaining 0.04 percent occurred at non-NPIAS airports.
[2]Based on active general aviation fleet of 211,793 aircraft in 2016. The remaining aircraft are based at non-NPIAS airports.
[3]These costs are rounded and do not include the cost for new airports (1 percent).

PRIMARY AIRPORTS

The 380 primary airports are grouped into four categories defined in statute: large, medium, small, and nonhub airports. Primary airports are eligible to receive an annual apportionment based on the number of enplaned passengers. CY 2017 enplanements determine FY 2019 service levels and passenger apportionments. Figure 3 shows the locations of the primary airports.

As shown in table 2, primary airports account for 99 percent of passenger enplanements, 36 percent of aircraft operations, and 61 percent of development contained in the NPIAS with the type of development needed varying by hub category. Further information on the various types of development is included in chapter 4.

Figure 3: Primary Airports



Large Hubs (30)

Large hubs are those airports that each account for 1 percent or more of total U.S. passenger enplanements.[7] The 30 large hub airports account for 72 percent of all passenger enplanements. Some of these passengers originate in the local community, and some are connecting passengers transferring from one flight to another. Nine of the large hub airports primarily serve passengers

[7]The FAA's use of the term "hub" airport is slightly different from that of airlines, which use it to denote an airport with significant connecting traffic by one or more carriers. The hub categories used by the FAA are defined in 49 U.S.C., section 40102.

that originate in the community or who are traveling specifically to those destinations.[8] Many other large hub airports support higher percentages of passengers who are traveling through the airport to connect to another flight, rather than starting or ending their travel at these airports. Such connecting traffic can account for more than 65 percent of passenger activity at the airport, such as Charlotte/Douglas International and Hartsfield-Jackson Atlanta International.

Large hub airports tend to concentrate on commercial airline and freight operations and have limited general aviation activity. Two large hub airports have an average of 170 based aircraft (Honolulu's Daniel K. Inouye International and Las Vegas McCarran International), and Salt Lake City International has more than 325 based aircraft, but the other 27 large hubs have an average of 29 based aircraft. Thus, locally based general aviation aircraft play a small role at most large hub airports.

The Nation's air traffic delay problems tend to be concentrated at certain large hub airports, particularly in the New York City area. Delays occur primarily during inclement weather conditions (i.e., thunderstorms or clouds that reduce ceiling and visibility) or when runway or airspace capacity is reduced below what is needed to accommodate traffic levels. Gate availability and airline schedules that exceed optimal airport capacity can also result in delays. Because of the number of connecting flights supported by these airports, delays at these airports can quickly ripple throughout the system causing delays at other airports nationwide.

Medium Hubs (31)

Medium hubs are defined in statute as airports that each account for between 0.25 percent and 1 percent of total U.S. passenger enplanements. The 31 medium hub airports account for 16 percent of all U.S. enplanements. Medium hub airports usually have sufficient capacity to accommodate air carrier operations and a substantial amount of general aviation activity. One medium hub airport (John Wayne Airport-Orange County) has 489 based aircraft, and three medium hub airports (Metropolitan Oakland International, Dallas Love Field, and William P. Hobby in Houston) each have an average of 270 based aircraft. The remaining 27 medium hub airports have an average of 81 based aircraft.

Small Hubs (72)

Small hubs are defined in statute as airports that enplane 0.05 percent to 0.25 percent of total U.S. passenger enplanements. There are 72 small hub airports that together account for almost 8 percent of all enplanements. Less than 25 percent of the runway capacity at small hub airports is used by airline operations so these airports can accommodate a great deal of general aviation activity, with an average of 128 based aircraft at each airport. These airports are typically uncongested and do not have significant air traffic delays. One small hub airport, Fairbanks International, has 570 based aircraft. Three small hub airports—Fairbanks International, Cyril E. King in Charlotte Amalie, Virgin Islands, and Orlando Sanford International—have an average of 380 based aircraft. The remaining 68 small hub airports have an average of 124 based aircraft.

[8]The nine include the major airports in Boston, Fort Lauderdale, Orlando, San Diego, Tampa, Portland (Oregon), and Las Vegas, as well as New York LaGuardia and Ronald Reagan Washington National.

Nonhub Primary (247)

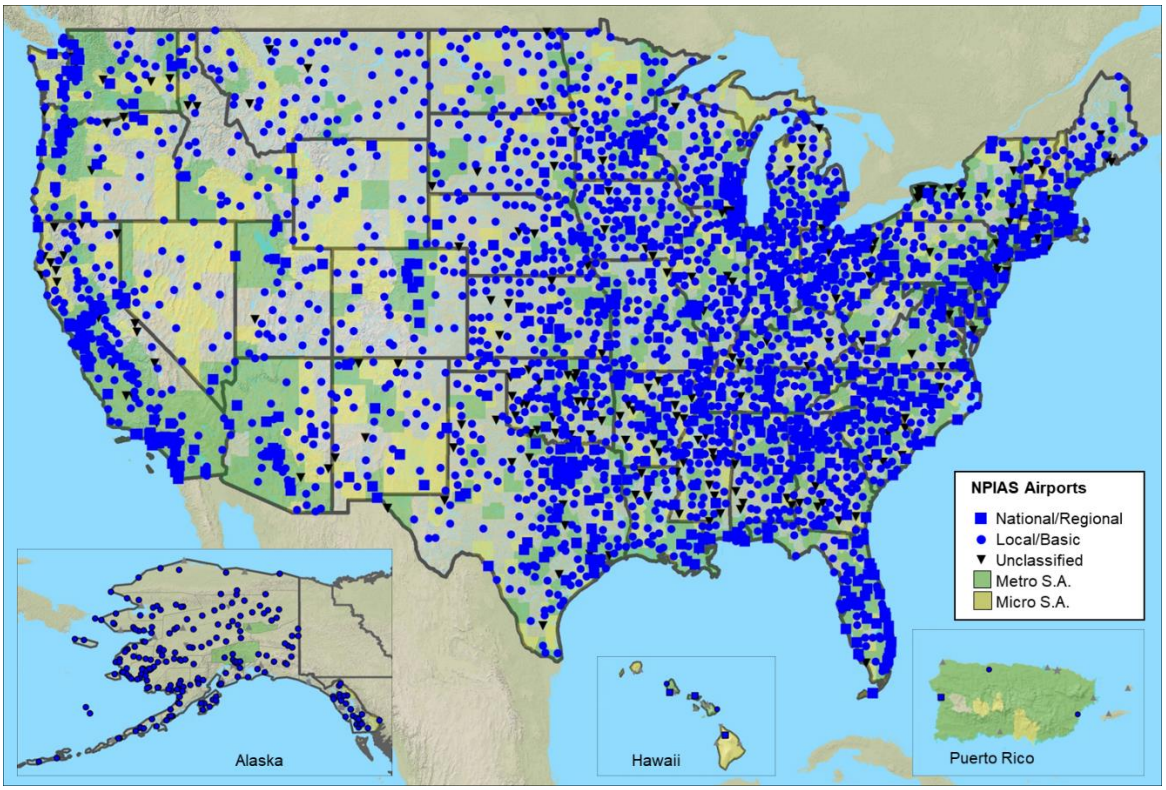
Commercial service airports that enplane less than 0.05 percent of all commercial passenger enplanements but have more than 10,000 annual enplanements are categorized as nonhub primary airports. There are 247 nonhub primary airports that together account for 3 percent of all enplanements. These airports are also heavily used by general aviation aircraft with an average of 87 based aircraft.

NONPRIMARY AIRPORTS

Nonprimary airports are mainly used by general aviation aircraft and include 126 nonprimary commercial service, 261 relievers, and 2,554 general aviation airports. Nonprimary airports are divided into five categories based on existing activity (e.g., the number and types of based aircraft and volume and types of flights), geographic factors, and public interest functions. These categories, illustrated in figure 4, are national, regional, local, basic, and unclassified.

The 2,941 nonprimary airports included in the NPIAS account for 59 percent of the active general aviation fleet, 64 percent of aircraft operations, and 38 percent of the AIP-eligible development through 2023. Development at nonprimary airports tends to focus on pavement reconstruction (runway, taxiway, and apron) and improvements to meet current airport design standards.

Figure 4: Nonprimary Airports



In preparation for the biennial report, the FAA reexamined the roles of nonprimary airports and coordinated with airport sponsors and State aviation agencies. The FAA continues to work with

industry to identify users of these facilities and their associated role in the State and national airport system.

As specialized functions emerge, the FAA will work with industry to incorporate them into the NPIAS categories. Each airport's category and role is reflected in appendix A. The next review of airport roles will be in FY 2020 in preparation for the 2021 NPIAS report due September 2020. Future development of nonprimary airports will continue to be based on eligible and justified needs and priorities consistent with the role of the airport in the national airport system.

National (88)

National airports are located in metropolitan areas near major business centers and support flying throughout the Nation and the world. These airports provide pilots with attractive alternatives to the busy primary airports. In fact, the FAA has designated 70 of these facilities as relievers for primary airports. National airports have very high levels of activity with many jets and multiengine propeller aircraft. Four national airports—Fort Lauderdale Executive, Phoenix Deer Valley, Centennial Airport in Denver, and Addison in Dallas—have more than 600 aircraft based at their airport. National airports average 249 total based aircraft, including 30 jets. The 88 national airports account for 5 percent of the development in this report.

Regional (492)

Regional airports are also in metropolitan areas and serve relatively large populations. These airports support regional economies with interstate and some long-distance flying and have high levels of activity, including some jets and multiengine propeller aircraft. Fifty-three of these airports have limited air carrier service, and the FAA has designated 140 regional airports as relievers for primary airports. Four regional airports (Falcon Field in Mesa, Arizona; Livermore Municipal in Livermore, California; Montgomery-Gibbs Executive in San Diego, California; and Caldwell Industrial in Caldwell, Idaho) each have more than 400 based aircraft. Regional airports average about 92 total based aircraft, including 3 jets. The 492 regional airports account for 12 percent of the development in this report.

Local (1,278)

Local airports are a critical component of our general aviation system, providing communities with access to local and regional markets. Typically, local airports are located near larger population centers but not necessarily in metropolitan areas. They also accommodate flight training and emergency services. These airports account for 39 percent of all NPIAS airports and have moderate levels of activity with some multiengine propeller aircraft. About 73 of these airports have limited air carrier service. Two local airports have more than 200 based aircraft (Nampa Municipal in Idaho and Birchwood Airport in Alaska). Local airports average about 34 based propeller-driven aircraft and no jets. The 1,278 local airports account for 14 percent of the development in this report.

Basic (840)

Basic airports fulfill the principal role of a community airport providing a means for private general aviation flying, linking the community with the national airport system, and making other unique contributions. In some instances, the airport is the only way to access the community and provides emergency response access, such as emergency medical or fire fighting and mail delivery. These airports have moderate levels of activity with an average of nine propeller-driven aircraft and no jets. Many of these airports are located in rural areas. The 840 basic airports account for 6 percent of the development in this report.

Unclassified (243)

These airports tend to have limited activity and include public- and private-owned airports. There are 188 public-owned unclassified airports. Of those, 57 have no based aircraft, 75 have between 1 and 4 based aircraft and 56 have between 5 and 8 based aircraft.

There are 55 privately owned unclassified airports. Of those, 23 are privately owned airports designated as relievers that do not meet existing criteria for AIP funding. About half of these airports have fewer than 50 based aircraft (compared to the long-established threshold of 100 based aircraft for designation as a reliever). Also included in the 55 are 32 privately owned general aviation airports. These airports do not meet the criteria for designation as a reliever and have never received an AIP development grant. These airports have been in the NPIAS for at least 20 years, and there is no indication they will ever meet the requirements to become classified. Over the next 2 years, the FAA will review these locations for continued inclusion in the NPIAS.

Two hundred and sixteen of the airports identified as unclassified airports in 2017 remain unclassified in this report. The activity or circumstances changed for 56 airports. The activity dropped at 27 airports, and they became unclassified. Activity increased at 29 airports, and they went from unclassified to basic (26), local (2), or regional (1).

NEW AIRPORTS (7)

The NPIAS identifies seven proposed airports, two primary and five nonprimary, that are anticipated to be developed and open over the 5-year period covered by this report[9]. One of the proposed new primary airports to help meet future aviation demand would be in the Chicago area and is still in the planning stages. The airport sponsor is currently evaluating methods for developing, financing, and operating the proposed airport. The other new primary airport will replace an existing commercial service airport in Williston, North Dakota, where airlines and general aviation are experiencing constraints due to increased activity caused by regional economic growth attributed to oil and natural gas production.

The five nonprimary airports are in Angoon, Alaska; Newtok, Alaska; Noatak, Alaska; Sioux Center, Iowa; and Griffin, Georgia. The replacement airport in Sioux Center, Iowa, will open in the fall of 2018 and the existing NPIAS airport (Orange City Municipal Airport) will close.

[9]Proposed new airports anticipated to open after 2023 are not listed in this report. However, needed development for those new airports between 2019 and 2023 is captured in Chapter 4, Table 6.

The new airports anticipated to open by 2023 are shown separately in appendix A and are also included in the State list of airports. They are identified by a location identifier beginning with a plus symbol (e.g., +07W). Appendix A does not identify new airports (planning sites) expected to open beyond 2023. Inclusion of a planning site in the NPIAS does not represent actual approval of the proposed airport (from a planning, environmental, or financial perspective), nor does it mean that the FAA has drawn a final conclusion about the need for (or technical or financial feasibility of) the proposed airport.

Since the last report, three new replacement airports opened in 2016 and 2017: Pilot Station, Alaska; Barter Island, Alaska; and Zuni, New Mexico. The three airports that were replaced have closed.

CONVERSION OF MILITARY AIRFIELDS AND USE OF MILITARY/CIVIL AIRFIELDS

The Defense Base Realignment and Closure (BRAC) Commission has made many military airfields available for conversion to civil aviation use since 1989. Local communities have converted about 32 surplus military airfields to civil use. Most of these military airfields have long runways and associated facilities that can accommodate large civil aircraft. Even before the establishment of the BRAC, military officials have cooperated with local communities across the country to provide civilian access to military airport facilities. These local arrangements add capacity to the national airport system and maximize public investment dollars by eliminating the duplication of airport facilities in a community for military and civilian activities. There are 21 military installations that also allow civilian aircraft activity. Many of the facilities are included in the NPIAS.

The U.S. Department of Defense (DOD) has found it advantageous to operate from civilian airfields. Similar to civilian uses on military airfields, military activity at civilian airfields reduces public investments in airport infrastructure by taking advantage of existing civilian airfield capabilities for military purposes. As specified in the National Guard Bureau Air National Guard Pamphlet 32-1001, Airport Joint Use Agreements for Military Use of Civilian Airfields, at airports where military units conduct a significant level of activity, the DOD entered into an agreement with the local community to pay for costs related to the military use of the airfield. As of 2017, the military has agreements in place with 90 civilian airports.

AIRPORT PRIVATIZATION

Public-use airports in the United States owned and operated by a public agency or a government entity, such as a county, city, or State government, are eligible to participate in the Airport Privatization Pilot Program. Congress established the pilot program (title 49 U.S.C., section 47134) in 1996 to determine if, once certain economic and legal impediments were removed, privatization could produce alternative sources of capital for airport development and provide benefits. The FAA's Modernization and Reform Act of 2012 expanded the pilot program from 5 to 10 airports, but left the requirement that the pilot program can include no more than one large hub airport and at least one general aviation airport unchanged. Public-

owned general aviation airports can be leased or sold; public-owned air carrier airports can only be leased. In February 2013, under the pilot program, the FAA approved a 40-year lease of Luis Muñoz Marin International Airport in San Juan, Puerto Rico, from the Puerto Rico Ports Authority (the public airport sponsor) to Aerostar (a private operator). Currently, Airglades Airport in Clewiston, Florida; Westchester County Airport in White Plains, New York; and St. Louis Lambert International Airport in St. Louis, Missouri, have applications under FAA consideration. Six pilot program slots (including one for a large hub airport) are still available.

This page is intentionally left blank.

CHAPTER 2: SYSTEM GOALS AND PERFORMANCE

OVERVIEW

This chapter describes DOT and FAA goals for the national air transportation system. The NPIAS supports DOT and FAA goals for the air transportation system as shown below. This chapter highlights the performance of the airport system in six key areas: safety, capacity, environmental performance, runway pavement condition, surface transportation accessibility, and airport financial performance. The report also includes major FAA initiatives that will improve the performance of the national air transportation system in these key areas.

DOT AND FAA GOALS

The DOT's Strategic Plan for FY 2018 through FY 2022[10] sets the direction for DOT to provide safe, efficient, convenient, and sustainable transportation choices. These are reflected in four strategic goals supported by a wide-ranging management goal to make the DOT a high-performance, outcome-driven Agency. The FAA has also adopted these goals, but with a focus on the aviation mode. These DOT and FAA goals are:

1. **Safety:** Reduce transportation-related fatalities and serious injuries across the transportation system;
2. **Infrastructure:** Invest in infrastructure to ensure mobility and accessibility and to stimulate economic growth, productivity, and competitiveness for American workers and businesses;
3. **Innovation:** Lead in the development and deployment of innovative practices and technologies that improve the safety and performance of the Nation's transportation system; and
4. **Accountability:** Serve the Nation with reduced regulatory burden and greater efficiency, effectiveness, and accountability.

FACTORS INDICATING SYSTEM PERFORMANCE

Not all system performance factors are related in the same way to capital infrastructure improvements, and increased investment in airport infrastructure is not the only way to improve performance. For example, Federal aid to airports can be useful when focusing on specific issues, such as funding airport rescue and fire-fighting (ARFF) equipment, development of safety areas around runways, removal of obstructions in runway approach paths, and planning and implementing noise compatibility measures. By contrast, however, airports can take a number of operational and other measures (not involving construction) to improve safety, accessibility, efficiency, financial, and environmental performance.

[10]DOT's Draft FY 2018–22 Strategic Plan is available at: www.transportation.gov/dot-strategic-plan.

SAFETY

The United States has not only the largest and most complex aviation system in the world, but also one of the safest as demonstrated by the low accident rate. Airport facilities and operations are an important contributor to the resulting safety record. Although airport infrastructure is rarely determined to be a cause of an aircraft accident, it may be cited as a contributing factor that impacts the severity of an accident, and in many cases, airport facility and operational improvements supported by the FAA either help prevent or mitigate accidents. Additionally, the FAA and industry have been proactively addressing emerging safety risks by building on safety management principles. This systematic approach to safety, called Safety Management Systems, identifies hazards, assesses the risks from those hazards, and puts measures in place to mitigate those risks.

Runway Safety

To operate safely and efficiently, the aviation system relies on communication and coordination among air traffic controllers, pilots, airports sponsors, airport vehicle operators, and pedestrians. Their actions affect runway safety.

The International Civil Aviation Organization defines a runway incursion as any occurrence at an airport involving the incorrect presence of an aircraft, vehicle, or person on the protected area of a surface designated for the landing and takeoff of aircraft. Incursions in the United States are classified based on the severity of the event.

Additional methods of preventing runway incursions include recommending that airports improve how they provide information on rapidly changing runway and taxiway construction and closings.

The FAA uses AIP funds to enhance airport safety and support the Agency's goal of reducing accidents, fatalities, and runway incursions. With the help of the AIP, airports can reconfigure runways and taxiways to optimize both safety and efficiency. Airport operators can build perimeter roads around the airfield so vehicles do not have to be driven across runways and taxiways. AIP funds are also used to meet updated standards for runway marking and signs, and eliminating confusion on airfields. These updates have included changing the airfield marking standard for taxiway centerlines at certificated airports (based on enplanements) to require special markings that will alert pilots when they are approaching hold short lines and working with airport operators to install stop bars[11] at certain runway/taxiway intersections.

The FAA also has a Facilities and Equipment (F&E) program that focuses on runway safety, including Airport Surface Detection Equipment, Model X (ASDE-X), Airport Surface Surveillance Capability (ASSC), and Runway Status Lights (RWSL).[12]

[11]A stop bar is a series of in-pavement and elevated red lights that indicate to pilots that they may not cross.
[12]More information on these programs can be found in the FAA's Capital Investment Plan at: www.faa.gov/air_traffic/publications/cip/.

Maintaining Safe Airport Conditions

The FAA helps airports maintain safe conditions by developing airport design standards based on airport design categories that apply to facilities throughout the system. The FAA airport design standards have evolved over time and provide the necessary dimensions to accommodate aircraft operations, such as with the standards for RSAs discussed in the next section. Airports agree, to the extent practical, to meet these FAA design standards when they accept AIP funds for capital improvements to their facilities. The FAA standards address physical layout characteristics, such as runway length and width, separation between runways, taxiways and taxilanes, RSAs, lighting, signs, and markings. The standards also address material characteristics (e.g., pavement, wiring, and luminance of lights) and issues, such as ARFF equipment, training and operations, snow removal plans and supporting equipment, and wildlife hazard management.

Runway Safety Areas (RSAs)

The RSA (typically 500 feet wide and 1,000 feet beyond the runway end for runways used by airlines) is designed to minimize damage to aircraft and injuries to occupants when an aircraft unintentionally overruns or veers off the runway during an operation. This standard provides for smoothly graded areas contiguous to the runway edges. Only objects required to be there because of their function (such as runway lights or signs) can be in the RSA. These objects must be frangible so they break away if struck by an aircraft. This design standard ensures the consequences of incidents are less likely to be severe.

As aircraft became larger, faster, and more demanding, the required RSA dimensions increased. As a result, many RSAs at commercial service airports (many of which were built decades ago) did not meet the FAA's current standards. As of 2015, RSA improvements at more than 500 commercial airports were completed to meet dimensional standards or an equivalent level of safety, to the extent practicable, with the help of both AIP and PFC funds, as well as local investments. The FAA, working with airport sponsors and local communities, has spent the last 15 years completing this initiative.

For some airports, it is not possible to acquire sufficient land to meet RSA standards through full physical compliance. For those cases, the FAA, in partnership with industry and airport sponsors, conducted research to develop a soft-ground arrestor system to quickly stop aircraft that overrun the end of a runway. Based on that research, the FAA issued a specification for Engineered Materials Arresting Systems (EMAS). An EMAS is designed to stop an overrunning aircraft by exerting predictable deceleration forces on its landing gear as the EMAS material deforms. The EMAS have been installed at 113 runway ends at 68 airports, and there are plans to install 6 more EMAS at 5 additional U.S. airports over the next several years.[13] To date, there have been 13 incidents where EMAS has safely stopped 13 overrunning aircraft with a total of 288 crew and passengers aboard those flights.[14]

[13]Changes in the commercial marketplace are expected in the near term as manufacturers of EMAS enter and leave the U.S. market. This does not impact the EMAS planned to be installed at five airports.
[14]Additional information on EMAS arrestments is available at: https://www.faa.gov/news/fact_sheets/news_story.cfm?newsid=13754.

Runway Incursion Mitigation (RIM)

Runway incursions occur because of human error by a pilot, an air traffic controller, a pedestrian, or a vehicle operator. The FAA tracks runway incursions to help identify and reduce the causes of runway incursions. In a more focused, national-level effort to understand the root causes of runway incursions, the FAA analyzed national runway incursion data for 2007 through 2016.

Based on that analysis, the FAA has now developed an inventory of airport locations where runway incursions have occurred and is working with airport sponsors to identify, prioritize, and develop mitigation strategies to address runway incursion risks. Mitigation alternatives focus on improving existing geometry issues but may also include improved marking and lighting, airfield signage, operational solutions, or other developing technologies. The FAA may provide AIP funding to an airport sponsor to study alternatives to reduce the number of runway incursions at their airports or to address unclear taxiway markings, lighting or signage, or taxiway layout concerns. Many solutions may consist of a combination of two or more of these alternatives.

This NPIAS report includes approximately $300 million in estimated RIM projects and as these projects are further developed, the costs will be refined. The next NPIAS report will reflect a fuller account of development needed to mitigate incursion risks through this program.

Wildlife Hazard Mitigation

The FAA has supported a wildlife management program for more than 50 years in an effort to keep airports safe by making them less attractive to all types of wildlife. The FAA has continued a multifaceted approach for mitigating wildlife strikes, in close coordination with other Federal agencies, as well as State aeronautical agencies, individual airports, and the private sector. The FAA's initiatives include continuing a robust research program, making improvements to the National Wildlife Strike Database and outreach, incorporating new technology to increase and simplify strike reporting, and providing AIP funding to airports to conduct Wildlife Hazard Assessments and develop Wildlife Hazard Management Plans.

CAPACITY

The ability of the United States to effectively compete in a global economy requires air transportation services that operate efficiently and reliably to sustain economic opportunity throughout the Nation. The capacity of any given airport (and the airport system as a whole) is affected by many factors, including the layout of individual airports, the manner in which airspace is organized and used, individual airport operating procedures, weather conditions, the types and numbers of aircraft using the system (including airline business practices), and the application of technology.

The majority of airports in the NPIAS have adequate airport capacity and little or no consistent delays. However, at a small number of airports where consistent capacity constraints and delays regularly occur, they frequently impact the entire air transportation system. The FAA works with State and local units of government to enhance airport capacity where it is justified by current or anticipated aeronautical demand and where the benefits of additional capacity exceed the costs.

A major concern in airport planning is the adequacy of the runways and taxiways to handle anticipated aircraft operations safely and efficiently. A single runway with a parallel taxiway can normally accommodate approximately 200,000 annual aircraft operations. The FAA provides technical guidance to help airport sponsors decide when they should consider airfield capacity improvements. Current FAA guidance[15] recommends that capacity planning start when aircraft activity reaches 60 to 75 percent of an airport's airfield capacity. This is because major airfield modifications often involve significant land acquisition, changes in airspace, and the need to address community concerns. As a result, such initiatives can often take several years from concept to completion, so the FAA's recommendation to start early allows adequate lead time for improvements to be consider and implemented before congestion problems become critical.

Since 2000, infrastructure projects at 23 major airports have provided airports with the additional capacity to accommodate over 2 million additional aircraft operations each year. Moving forward, new airport infrastructure will continue to play a vital role in increasing capacity. This is true even with the capacity and efficiency benefits that are being realized with the NextGen program to modernize the National Airspace System (NAS).[16]

Where substantial new capacity is needed, new or expanded airfield infrastructure will generally represent the most viable means of achieving significant capacity increases. However, NextGen technologies and procedures can further enhance airport capacity and help optimize the efficient movement of flights to and from a new runway. NextGen will often be a critical enabler for a new runway, for example, by maximizing the capacity that can be achieved by using of performance-based navigation (PBN) procedures or approaches to closely spaced parallel runways. Going forward, both new runways and NextGen improvements are needed to improve efficiency at capacity-constrained airports. For more information, see section on Alternative Capacity Enhancement Methods.

Congestion and Delay

The concentration of aircraft arrivals and departures at an airport can result in congestion and delay. Consistent delays are an indicator that activity levels are approaching or exceeding throughput capacity of the airfield system, including runways, gates, and/or ramps. The impacts of delays can be measured in many ways and include:

- Direct costs, such as increased fuel use and crew time;
- Indirect costs, such as the extra travel time for passengers;
- Missed connections (resulting in delays on other airlines and their passengers); and
- Increased air emissions.

Delay is expressed in different metrics. For example, DOT tracks the on-time performance of airlines and reasons for flights arriving after their scheduled arrival times. Other delay statistics are collected and used for specific purposes. For example, air traffic controllers identify instances where aircraft are delayed 15 minutes or more in a phase of flight. The FAA uses this

[15]See Table 3-2 in FAA Order 5090.3C, Field Formulation of the National Plan of Integrated Airport Systems.
[16]Additional information about the Next Generation Air Transportation System, see: www.faa.gov/nextgen/.

information to monitor the day-to-day operations of the air traffic control system. Airport planners and designers use the average delay per aircraft operation as a measure of congestion, which is related to the balance of demand versus capacity. This statistic can be forecasted and translated into a dollar cost of delay and used to inform infrastructure investment decisions.

Air Carrier On-Time Performance

The DOT defines a delayed operation as an aircraft arriving at or departing from a gate 15 minutes or more after its scheduled time. The number of arrivals and departures that are delayed 15 minutes or more is compiled by DOT.

In 2017, the 14 carriers reporting on-time performance recorded an overall on-time arrival rate of 80.2 percent with 1.5 percent of the flights canceled.[17] Of the 18.1 percent of flights delayed in 2017:[18]

- 6.8 percent were delayed because the aircraft arrived late (previous flight with same aircraft arrived late, causing the present flight to depart late);
- 5 percent were delayed due to air carrier delay (circumstances within the airline's control, such as maintenance or crew problems, aircraft cleaning, baggage loading, and fueling);
- 5.6 percent were delayed due to national aviation system delays, such as significant aviation weather constraints (3.1 percent), runway closures (0.7 percent), heavy traffic volume (1.8 percent), and air traffic control;
- 0.5 percent were delayed due to extreme meteorological events that, in the judgment of the carrier, delayed or prevented the operation of a flight, such as tornado, blizzard, or hurricane; and
- 0.2 percent of the delays were attributed to diverted flights.

Delay Indicators

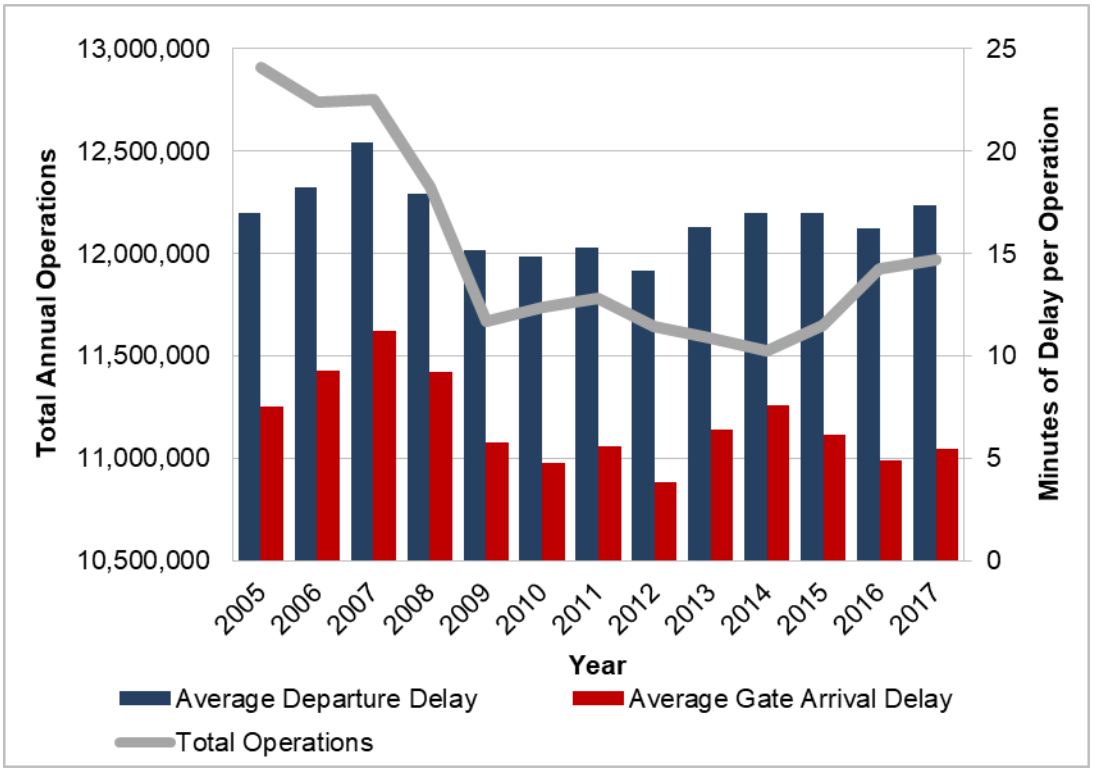
The FAA monitors the day-to-day operations of the NAS, including the operational efficiency of airports and the air traffic control system. Through the Aviation System Performance Metrics (ASPM) system, the FAA tracks delay indicators at the 30 busy hub airports, referred to as "core airports,"[19] using reporting from air traffic controllers and participating airlines.

Airport planners and designers use delay per aircraft operation as a measure of congestion to identify airport infrastructure projects that can enhance capacity. Figure 5 shows recent trends in aircraft operations and average delays at the 30 core airports from 2005 through 2017. Total aircraft operations are lower than the 2005 peak due to the effects of economic changes, airline consolidation, and the use of larger aircraft with more seats (commonly referred to as "upgauging"). Upgauging allows airlines to transport growing numbers of passengers with a slower growth or even declining numbers of flights. Delay trends have been generally lower, in part due to changes in operational demand but also due to additional capacity added to the

[17]Data available at: www.transtats.bts.gov/HomeDrillChart.asp.
[18]Data available at: www.transtats.bts.gov/OT_Delay/OT_DelayCause1.asp?pn=1.
[19]The FAA has identified those airports with the greatest impact on system performance as "core airports." These core airports have more than 1 percent of passenger enplanements or 0.75 percent or more of the total nonmilitary itinerant operations.

system with airport runway development and airspace modernization, including NextGen. Despite increasing numbers of operations in recent years, delay rates do not appear to be increasing as much.

Figure 5: Average Delays for Core 30 Airports



Source: ASPM. Data available at: https://aspm.faa.gov/aspm/entryASPM.asp.

Airport Capacity–A National Look

The FAA developed a series of analyses and reports, known as the Future Airport Capacity Task (FACT), to assess the future capacity of the Nation's airports and metropolitan areas. The first FACT report was published in 2004, and an update, FACT2, was published in 2007. A third report, FACT3, was published in 2015.[20] In light of robust growth in passenger demand at certain U.S. airports in recent years, the FAA is now considering how best to update those analyses.

Another series of reports issued by the FAA examined the capacity of the major U.S. airports. The Airport Capacity Profiles, formerly known as the Airport Capacity Benchmark Report, was updated in 2014.[21] Capacity for the purpose of this report was defined as the hourly throughput of arrivals and departures that an airport's runways are able to sustain during periods of high demand. Information was provided on the facility's layout, annual weather conditions, current operations, and recent and future improvements. Both air traffic control facility "call rates" and

[20]This report is available at: www.faa.gov/airports/planning_capacity/.
[21]Airport Capacity Profiles are available at: www.faa.gov/airports/planning_capacity/profiles/.

model-estimated hourly throughput rates are shown for the highest capacity configuration that is commonly used during visual, marginal, and instrument conditions. Updated airport profiles are published annually to the Web site for selected airports that have either seen enhancements to runway infrastructure or updated air traffic control procedures. The model used for this report was also used for FACT3, as well as for the NextGen systems analysis evaluations, and is available for use by airports in the United States.[22]

Alternative Capacity Enhancement Methods

While the construction of new runways and runway extensions can provide substantial improvements to capacity, new technology can also benefit some airports by reducing delays and increasing operational efficiency without substantial capital investment. Incorporating new technologies in the modernization of the NAS is a key component to the FAA's NextGen program.

In some cases, delays can be reduced or proactively managed, in part, by modifying air traffic control procedures or introducing new technologies to improve the flow of airborne aircraft. Changes in air traffic and flight procedures may also improve the efficiency of traffic flows or alleviate capacity constraints. Airspace design changes, for example, may be able to establish more effective airspace structures and provide better access and improved use of available runways.

NextGen improvements are benefiting airports today. For example, Data Communications (Data Comm) is improving departure efficiency and reducing departure delays by using speedy datalinks to deliver departure clearances and clearance revisions to aircraft. The increased use of advanced modern avionics and PBN routes and procedures in the NAS is improving access to general aviation airports and improving the airspace efficiency of busy, complex hub airports. Along with the FAA, airports and airlines are investing in surface surveillance systems and data sharing to comprehensively track surface movements in order to enhance safety and traffic flow, as well as to improve collaborative decisionmaking. Updated closely spaced parallel runway standards published in 2015 allow for increasing capacity on some existing runways while providing options to build new runways with reduced lateral spacing and less real estate. Comprehensive information is available in the FAA's annual NextGen Update.

Congestion Management

Congestion management is a broad term that includes a number of imposed administrative measures to reduce congestion and delay and allocate constrained capacity. Airport operators may seek to reduce congestion through revenue neutral peak-hour pricing to encourage airlines to move operations to a less congested time or secondary airport.[23]
The International Air Transport Association (IATA) established another congestion management technique, the Worldwide Slot Guidelines (WSG), to provide the global air transport community with uniform standards for the management of airport slots at congested airports. The FAA follows the standards and process in the WSG for slot administration to the extent there is no

[22]Model information is available at: www.faa.gov/airports/planning_capacity/runwaysimulator/.
[23]DOT's Policy Regarding Airport Rates and Charges, 73 Federal Register 40434 (July 14, 2008); see also *Air Transport Association of America* v. *U.S. Department of Transportation,* 613 F.3d 206 (D.C. Cir. July 13, 2010) (denying petition for review of policy).

conflict with U.S. law, rules, or administrative procedures. Under the WSG, airports are classified into one of three categories based on the degree of congestion and potential for delays:

- Level 1 is assigned where the capacity of airport infrastructure is generally adequate to meet demand and therefore there is no extensive pattern of delays;
- Level 2 is assigned where there is potential for congestion during some periods of the day, which can be managed through mutual cooperation of the carriers with the schedule facilitator to ensure scheduling within the airport's capacity; and
- Level 3 is assigned where infrastructure is inadequate to meet demand and there is significant potential for delays requiring mandatory slot control.

Most airports in the United States have adequate runway capacity and are categorized as Level 1 airports under the IATA WSG. Four airports in the United States—Chicago O'Hare International Airport, Los Angeles International Airport, San Francisco International Airport, and Newark Liberty International Airport—are categorized as Level 2. Three airports in the United States are categorized as Level 3 or equivalent—John F. Kennedy International, LaGuardia, and Ronald Reagan Washington National.

New York Metropolitan Area

Persistent demand for New York area airspace and airports and the limited ability to expand capacity presents the FAA with a challenge of how best to allocate scarce runway capacity. For decades, the FAA managed congestion at LaGuardia and John F. Kennedy International airports through the High Density Traffic Airports Rule (HDR). However, Congress mandated the expiration of the HDR at both airports on January 1, 2007. The FAA put temporary orders in place at all three New York metropolitan airports that cap scheduled operations to minimize congestion after the expiration of the HDR. The orders for John F. Kennedy International and LaGuardia were extended until October 24, 2020. Beginning with the winter 2016 scheduling season, the FAA changed the designation at Newark Liberty International under the WSG to Level 2 schedule facilitation.

To integrate the implementation of delay-reduction initiatives in the New York metropolitan area, the New York Area Program Integration Office was established with representatives from the FAA's Air Traffic, Aviation Safety, Airports, Policy, International Affairs, and Environment offices. The team has developed an Integrated Master Schedule and Delay Reduction Plan with all delay reduction initiatives and supporting projects.

The Port Authority of New York and New Jersey has a number of ongoing and planned projects to better serve passengers and improve operational efficiency at its system of airports. The Port Authority operates LaGuardia, John F. Kennedy International, Newark Liberty International, Stewart International, Teterboro, and Atlantic City International airports. The Port Authority also continues to evaluate ways to accommodate future demand for air travel in the New York metropolitan area.

Ronald Reagan Washington National Airport

At Ronald Reagan Washington National Airport, the equivalent of IATA Level 3 slot controls are in place pursuant to the HDR (14 CFR, part 93, subparts K and S) to govern operations daily,

from 6 a.m. to 11:59 p.m. Some additional operations are permitted by exemption on a limited basis pursuant to 49 U.S.C., sections 41714 and 41718.

Chicago O'Hare International Airport

As an IATA Level 2 schedule facilitated airport, the FAA continues to monitor congestion and delay at Chicago O'Hare International. The FAA obtains advance schedule information from United States and foreign air carriers, which enables the Agency to identify and work with the carriers to voluntarily mitigate excessive scheduling and delays.

San Francisco International Airport

The FAA determined that the demand and capacity balance at San Francisco International Airport warranted IATA Level 2 designation. The FAA continues to review the aggregate of planned schedules and determines whether they may cause significant congestion and delays in light of operational constraints and works with airlines to voluntarily adjust schedules to mitigate congestion and delay impact, as necessary.

Los Angeles International Airport

In 2015, the FAA designated Los Angeles International Airport as an IATA Level 2 airport due to the potential for congestion during the phases of the multiyear runway construction work, as well as forecasted schedule growth by multiple carriers.

ENVIRONMENTAL CONSIDERATIONS

Community concern about environmental issues can complicate plans to expand existing airports, as well as developing new airports. The problems can be particularly serious in metropolitan areas where there is high aviation demand and strong pressure to develop residential and other incompatible land uses near airports. In addition, airports in large metropolitan areas are frequently located in air quality nonattainment areas. Historically, communities have been concerned about noise levels, but they are also concerned about air quality, water quality, traffic congestion and a host of other environmental concerns.

As it evolves, NextGen capabilities will help reduce environmental issues by enabling more efficient movement of aircraft on the airport surface. New airframe and engine technologies will also improve noise, air quality, and greenhouse gas emissions. The introduction of PBN to the NAS introduces both opportunities and challenges for controlling noise exposure to communities. The highly configurable nature of PBN procedures allows the potential to design routes away from population centers while safely maintaining the narrower flight corridors, generally reducing noise impacts on the periphery of new or legacy flight paths, and allowing for increased efficiency. However, the narrower flight paths may focus noise levels directly under consolidated flight paths. The FAA continues to refine our ability to model environmental impacts associated with PBN, including noise and air quality. The FAA considers the potential impacts prior to implementing FAA actions.

Noise

The noise situation around airports has changed dramatically since 1976.[24] At that time, an estimated seven million people living near airports in the United States were exposed to significant levels of aircraft noise.[25] That number decreased markedly over time, despite significant increases in both passenger demand and flight operations. This reduction of aircraft noise levels for people living near or around airports who are exposed to aircraft noise is primarily due to reductions in aircraft source noise and the phaseout of older Stage 1 and 2 aircraft. It is estimated that the number of people in the United States living in areas adjacent to airports with noise levels above the DNL of 65 dB decreased from approximately 498,000 in CY 2005 to 408,000 in CY 2016 as shown in Figure 6.

In 1997, the FAA established a noise exposure performance target to reduce aircraft noise levels for people living near or around airports who are exposed to significant aircraft noise by 1 percent per year. This target was updated in 2007 from a reduction of 1 percent per year to 4 percent per year. In 2010, FAA established the 2005 baseline of 500,000 as the number of people exposed to significant aircraft noise against which to measure FAA's noise reduction goal. In 2011, FAA set an additional target to reduce the number of people living in areas of significant aircraft noise to 300,000 by 2018. This target is aligned with the 4-percent reduction per year that FAA has been working toward.

Although the FAA has succeeded in achieving this goal in the past, the number of people exposed to significant noise, which can fluctuate year to year, has been increasing the last several years. In FY 2017 (CY 2016), with a result of 408,000 people exposed to significant aircraft noise, the FAA did not achieve the noise exposure goal of keeping the number of people exposed to significant aircraft noise below 315,000. The increase in significant noise exposure from FY 2016 to FY 2017 was due to several factors including an increase in overall air carrier operations, an increase in nighttime operations (defined as occurring between 10 pm and 7 am local time), and an increase in population. In addition to these factors, the underlying modeling inputs were updated which also affected the noise exposure results.

Considerable effort[26] has been expended over the past 39 years to provide relief to noise-impacted areas by funding noise mitigation projects under the AIP. Noise mitigation projects include residential and public building sound insulation, land acquisition, and relocating residents from noise-impacted areas. Noise compatibility efforts also promote preventive measures, such as comprehensive planning, zoning, subdivision ordinances, building codes, and real estate disclosure. In addition, airports have acquired noise barriers to reduce ground run-up noise.

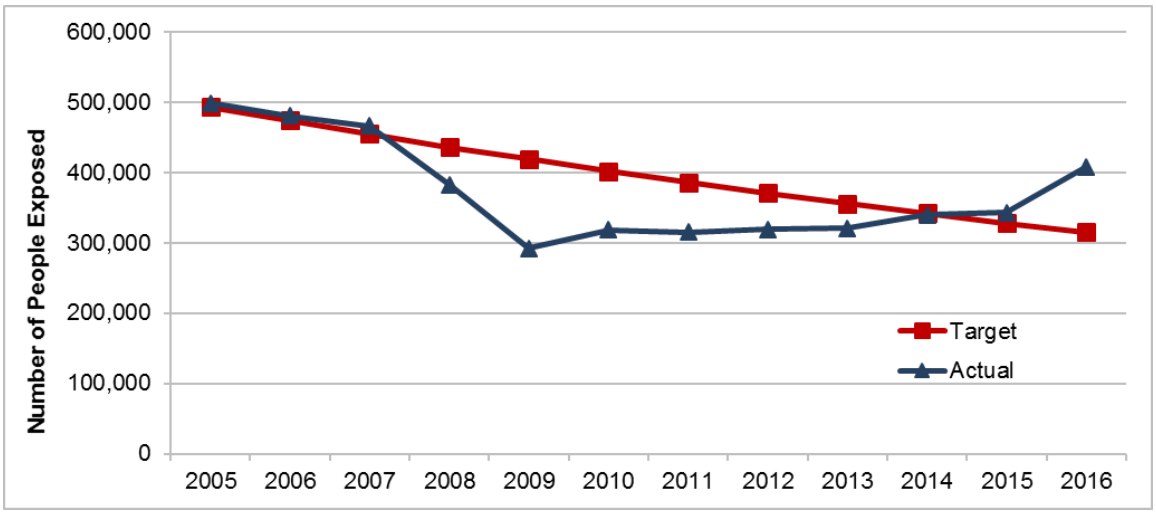
---

[24]In 1976, the DOT published its Aviation Noise Abatement Policy, which provided a course of action for reducing aviation noise impact. The principles contained in that document and subsequent legislative and regulatory action have resulted in a dramatic reduction in the number of Americans adversely exposed to aviation noise. An excerpt of that policy is available online at: http://www.faa.gov/about/office_org/headquarters_offices/apl/noise_emissions/planning_toolkit/.

[25]Defined as day/night average sound level (DNL) of 65 decibels (Db) or higher in title 14 CFR, part 150, section 7, and Appendix A (Table 1) for residential land uses.

[26]Airport Noise Compatibility Planning under Title 14 CFR part 150 helps airport operators develop comprehensive noise and land use compatibility programs.

Figure 6: Number of People Exposed to Significant Aircraft Noise (CY 2005-2016)



Air Quality

Many of the Nation's airports are located in air quality nonattainment or maintenance areas. Air quality improvements in these areas are accomplished through State implementation plans, which provide controls and measures to meet health-based National Ambient Air Quality Standards under the Clean Air Act. The FAA provides financial support for airport air quality mitigation through the AIP and PFC Program.

Water Quality

Many of the Nation's airports are located near waterways and wetlands because when airports were originally built, the most readily available land suitable for airports (flat and inexpensive) was found near water. Today, activities at these airports have the potential to cause adverse water quality impacts if they are not properly designed and managed. In particular, airport construction activities, fire-fighting activities, and seasonal aircraft and runway anti-icing/deicing operations are major concerns. Airport construction activities could cause a sediment-laden runoff to enter waterways. Chemicals in the aqueous film forming foams are now being regulated in some states because of their potential toxicity and persistence issues. Biological and chemical breakdown of aircraft and runway deicing chemicals in an airport runoff can reduce oxygen in receiving waters. Additives in deicing chemicals may be toxic to aquatic life, and the industry has taken steps to eliminate such additives.

The FAA continues to work with other Federal and State agencies, airport operators, airlines, and industry groups to address various water quality issues, and with airport operators and airlines in the search for alternatives to earlier generation runway deicing chemicals, methods to deice aircraft, and the use of centralized aircraft deicing facilities. The FAA is also working with airport sponsors, industry associations, and other Federal agencies to ensure water quality mitigation activities do not create safety concerns by attracting wildlife, notably large mammals or birds hazardous to aviation. The FAA also supports and participates in Airport Cooperative Research Program projects administered by the Transportation Research Board regarding water quality.

Environmental Streamlining

Before a new runway or major runway extension can be built, the FAA must assess potential environmental impacts in order to comply with a number of environmental laws. The FAA's authorizing statute requires the FAA to implement a process for expedited and coordinated environmental reviews of certain airport capacity, safety, and security projects, but in fact, the FAA routinely applies streamlining principles to virtually all proposed airports projects in order to minimize review time and ensure optimal coordination among and between Federal and state agencies. The FAA works with other Federal and state environmental resource agencies to achieve concurrent reviews and coordinated permit approvals to the greatest extent possible. This includes establishing and monitoring schedules and key milestones, as well as processes to quickly elevate and resolve disagreements between stakeholders.

The FAA will implement Executive Order 13604, Improving Performance of Federal Permitting and Review of Infrastructure Projects, which calls for the execution of Federal permitting and review processes, including environmental review processes, with maximum efficiency and effectiveness. Additionally, the FAA will implement Executive Order 13807, Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects (2017), which directs Federal agencies to conduct environmental reviews and issue authorization decisions for "major infrastructure projects" in a coordinated, consistent, predictable, and timely manner.

RUNWAY PAVEMENT CONDITION

Airfield pavement needs regular preventive maintenance to seal cracks and repair damage, decreasing the frequency of major rehabilitation cycles. Preventive maintenance (e.g., seal coat surface treatment) or more significant rehabilitation may be needed on a 4- to 7-year cycle or a 15- to 25-year cycle, respectively, to remedy the effects of age, use, and exposure. Runway pavement in a state of good maintenance minimizes damage to aircraft and avoids unnecessary higher costs for major rehabilitation (e.g., full-depth reconstruction).

As part of airport inspections, the FAA updates airport master records for public-use airports and reports the results through the Airport Safety Data Program. Runway pavement conditions are classified as excellent (no visible deterioration); good (e.g., all cracks and joints sealed); fair (e.g., mild surface cracking, unsealed joints, some slab edge spalling); poor (e.g., large open cracks, slab surface and edge spalling, vegetation growing through cracks and joints); or failed (e.g., widespread severe cracking with raveling and deterioration).

The FAA's longstanding goal is to ensure that at least 93 percent of paved runways at airports in the NPIAS are maintained in excellent, good, or fair condition. Data for FY 2017 indicates that 97.8 percent of runways at NPIAS airports are rated excellent, good, or fair. Pavements at commercial service airports are even better with 98.2 percent of the runways rated excellent, good, or fair.

It is important to note that even a runway in "poor" condition is still safe for flight operations. It simply requires more frequent inspections and often more intensive pavement maintenance (e.g., patching and crack-sealing). By the time a runway is in poor condition, the FAA expects the

airport to be well underway with the necessary planning and engineering design work to rehabilitate the runway (if it is still needed for flight operations).

Many older airports were built decades ago before jets were prevalent in the fleet. Such airports may have needed multiple runways in order to provide sufficient coverage for variable wind conditions for piston and turboprop aircraft.

Today, some industry stakeholders have pressed the FAA to establish clearer criteria for runways that need to continue to be available for flight operations based on current aircraft performance characteristics and operational requirements. Accordingly, at the time this report is being prepared, the FAA is engaged in two reviews: First, regarding the scope of runways that should continue to be the subject of the pavement condition goal in the future; and second, whether the existing system of classifying pavement condition remains the most beneficial to the public interest.

SURFACE ACCESSIBILITY

Airports are generally located to make air transportation as convenient and accessible as possible. The 2010 Census, extrapolated to 2017, reveals that 72 percent of the current U.S. population of 319.4 million people lives within 20 miles of a primary airport. When general aviation airports are also included, 98.5 percent of the population lives within 20 miles of a NPIAS airport.

Statistics for major airports in the United States show a limited but important role for public transportation to airports. The Intermodal Passenger Connectivity Database [27] includes information on more than 7,000 passenger transportation terminals and available intermodal connections. Data collected from 2007 to mid-2012 indicates that 29 percent of commercial service airports are served by another scheduled public transportation mode, predominately transit bus (citywide or metropolitan area buses). The airports with higher passenger traffic were more likely to have two or more other transport modes. Every large hub airport, 94 percent of the medium hubs, 45 percent of the small hubs, and 14 percent of the nonhubs have at least one public transportation mode servicing the airport. These options can be important for airport and airline employees, as well as for passengers.

FINANCIAL PERFORMANCE

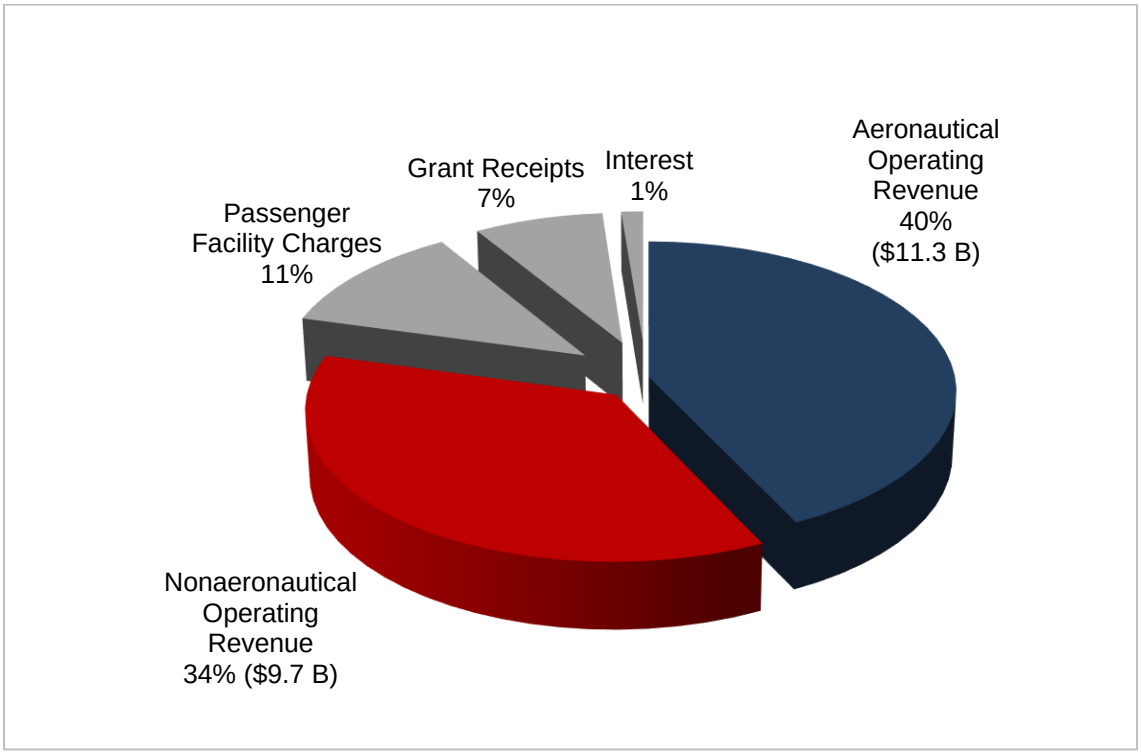
The NPIAS airports are owned and operated by thousands of State and local agencies and a few private owners. This makes compiling comprehensive data on the financial operations of all 3,321 existing NPIAS airports difficult. However, the FAA requires commercial service airports to report financial data annually, including revenue and expense information. Because the remaining 2,800 NPIAS airports are not required to report financial information, there is limited financial data available for general aviation airports.

[27]Research and Innovative Technology Administration, Bureau of Transportation Statistics, Intermodal Passenger Connectivity Database at: www.transtats.bts.gov/DatabaseInfo.asp?DB_ID=640&Link=0.

The FAA uses data provided by commercial service airports from FAA Form 5100-127, Operating and Financial Summary, for each fiscal year to evaluate the financial performance of the airports.[28] Data collected in these forms includes the following:

- Aeronautical and nonaeronautical revenues;
- Operating and nonoperating expenses;
- Beginning and ending balances for net assets; and
- Operating statistics.

Figure 7: 2016 Revenue at Commercial Service Airports by Type



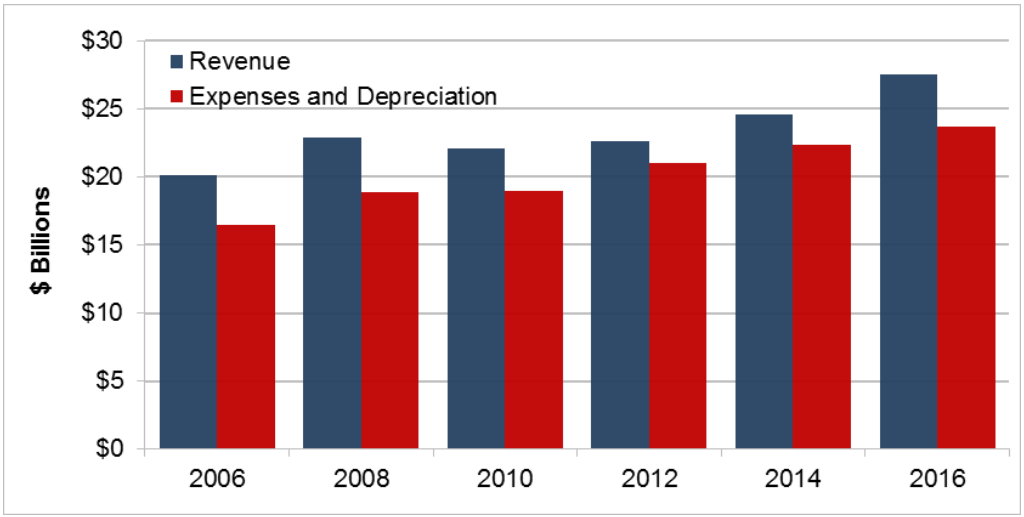
The costs of airport operations and maintenance are a function of the age of the facilities and the nature of airline activity and other operations. There is considerable variation in net income by hub type and year with large hubs accounting for 73 percent of the net income reported in 2016. There is also a variation in revenue sources and expenditures among airports. For example, for large hub airports, concessions, rental car, and parking revenues are 26 percent of total revenues, compared with 34 percent for medium hub airports, 30 percent for small hub airports, and 14 percent for nonhub primary and nonprimary commercial service airports. Table 4 provides a summary of 2016 revenue and expenses by hub type.

The financial status of the Nation's air carrier airports is generally stable with airports carefully managing operating, financing, and capital expenses. Airports continue to increase how efficiently they can manage their facilities, providing opportunities for competitive airline

[28] Source: Data collected by the FAA on FAA Form 5100-127 (Operating and Financial Summary) for fiscal years ending in 2016 (as of April 2018). Certification Activity Tracking System, http://cats.airports.faa.gov/.

service. Airports have the ability to diversify and maximize revenue from concessions and other assets allowing greater revenue diversity and growth. Between 2006 and 2016, the total airport revenue and expenses reported for commercial service airports increased (see Figure 8). In 2006, the total revenue at commercial service airports was $3.6 billion more than total expenses (including depreciation). In 2016, the total revenue at commercial service airports was $3.8 billion more than total expenses (including depreciation), an increase of 5.5 percent in the 10-year period.

Figure 8: Revenue and Expenses Plus Depreciation by Year



Commercial service airports have several sources to fund airport development projects, including bond proceeds, PFC revenues, airport-generated funds (landing and terminal fees and parking, aviation fuel, and concessions revenues), and tenant and third-party financing, as well as Federal, State, and local grants. A significant percentage of the development projects at major U.S. airports are funded through the capital markets, most commonly through airport revenue bonds. Bond ratings range from B at the low end to AA at the high end. Airports with more economic and financial strength and diversity tend to achieve higher ratings (and thus lower costs of capital), while smaller airports tend to be rated lower (with correspondingly higher costs of capital).

Capital markets evaluate the creditworthiness of an airport based on several factors. These factors include the demand for air service in the region, the type of passenger demand (originating versus transferring), the number of commercial airports in the region, and the quantity and quality of service provided by the airlines. The overall creditworthiness of U.S. airports as a group remains strong. Large and medium hub airports typically have had strong credit ratings, and this is not expected to change in the study timeframe. Nonhub primary and nonprimary commercial service airports have more limited incomes and generally do not have such robust operating surpluses to repay borrowed funds. As a result, smaller airports tend to rely more heavily on grants than larger airports to finance capital improvements.

Table 3: Airport Operating and Financial Summary for Commercial Service Airports 2016 ($ Millions)

Category	30 Large Hub	31 Medium Hub	72 Small Hub	388 Nonhub	521 Total
Aeronautical Operating Revenue					
Aeronautical Operating Revenue					
Landing Fees	$2,824	$576	$289	$94	$3,783
Terminal Rents	3,989	678	318	98	$5,083
Cargo and Hangar Rentals	421	77	83	80	$661
Fixed-Base Operator Revenue	107	50	44	58	$259
Apron Charges/Tie Downs	109	53	25	8	$195
Fuel Sales and Taxes	184	42	35	106	$367
Other Aeronautical Fees	806	60	60	77	$1,003
Total Aeronautical Operating Revenue	***$8,440***	***$1,536***	***$854***	***$521***	$11,351
Nonaeronautical Operating Revenue					
Parking and Rental Car	$3,637	$1,204	$765	$228	$5,834
Concessions	1,196	201	87	19	$1,503
Terminal Rents	361	46	38	10	$455
Land Rental and Nonterminal	348	100	107	121	$676
Other Nonaeronautical Fees	938	120	107	58	$1,223
Total Nonaeronautical Operating Revenue	***$6,480***	***$1,671***	***$1,104***	***$436***	***$9,691***
Nonoperating Revenue (Expenses) and Capital					
Passenger Facility Charges	$2,354	$493	$234	$75	$3,156
Grant Receipts	583	272	503	657	$2,015
Interest	268	43	21	7	$339
Other	334	220	160	236	$950
Total Nonoperating Revenue	***$3,539***	***$1,028***	***$918***	***$975***	***$6,460***
TOTAL REVENUE	**$18,459**	**$4,235**	**$2,876**	**$1,932**	**$27,502**
Operating Expenses					
Personnel Compensation and Benefits	$3,586	$818	$640	$429	$5,473
Contractual Services	3,154	695	324	216	4,389
Communications and Utilities	677	170	115	77	1,039
Supplies and Materials	344	95	94	80	$613
Insurance, Claims, and Settlements	129	37	29	25	$220
Other	1138	199	139	120	1,596
Total Operating Expenses	***$9,028***	***$2,014***	***$1,341***	***$947***	***$13,330***
Nonoperating Expenses					
Interest Expense	$2,706	$488	$188	$56	$3,438
Other	0	0	0	0	$0
Total Nonoperating Expenses	***$2,706***	***$488***	***$188***	***$56***	***$3,438***
TOTAL EXPENSES	**$11,734**	**$2,502**	**$1,529**	**$1,003**	**$16,768**
Depreciation	$4,337	$1,119	$910	$566	$6,932
NET INCOME	**$2,388**	**$614**	**$437**	**$363**	**$3,802**
Other Information					
Capital Expenditures	$6,902	$1,289	$1,016	$1,040	$10,247
Bond Proceeds	6,569	626	213	97	7,505
Sale of Property, Contributed Capital, Other	10	69	1	19	99
Reporting Year Debt Payments	8,705	1,612	755	241	11,313
Indebtedness at End of Year	$70,256	$11,920	$4,416	$1,423	$88,015

Nonhub Note: Included in the Nonhub column are nonhub primary and nonprimary commercial service airports along with approximately 77 State of Alaska airports, which are consolidated into one reporting entity.

This page is intentionally left blank.

CHAPTER 3: USE OF THE AIRPORT SYSTEM

OVERVIEW

There are several factors that impact airport development requirements. The largest factors affecting airport facility requirements and capital investment are the current type and level of operations and future demand for air transportation.

The FAA uses a comprehensive process to guide airfield development. It includes airport master planning, FAA airspace studies, airfield modeling, and capacity/delay analysis, as well as benefit-cost analyses for larger capacity projects. Airfield simulation models are employed to estimate the level of delay associated with current and forecast operations for both the existing airfield and for planned improvements.

Forecasts of future levels of aviation activity, which typically are part of an airport master plan, are the basis for airport planning decisions. These projections are used to determine the need and timing for new or expanded facilities at individual airports.

The FAA issues an annual aerospace forecast that is a top-down (national level) forecast for aviation activity in the United States for the next 20 years. The national forecast[29] examines current commercial operations (passenger and cargo) and general aviation, as well as emerging aircraft operations (e.g., commercial space and unmanned aircraft systems) and projects future activity. The FAA also develops a bottom-up forecast, known as the Terminal Area Forecast (TAF), for each individual NPIAS airport.[30] These forecasts are prepared to meet the budget and planning needs of the FAA and to provide information that may be useful for State and local authorities, the aviation industry, and other stakeholders.

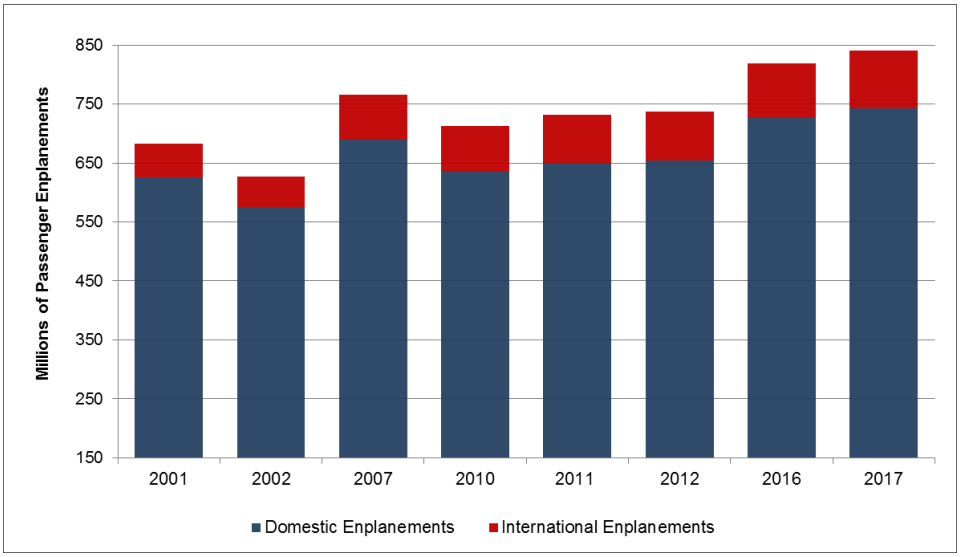
COMMERCIAL AIRLINE SERVICE

The national airport system is a reflection of the types of aircraft using the airports and subsequent economic activity. Of the 3,321 airports contained in the NPIAS, approximately 506 of these airports are commercial service airports. Commercial airline service represents the most widely known aspect of the aviation industry and includes the carriage of passengers on aircraft.

The last 17 years have been turbulent for U.S. commercial air carriers, resulting in variations in annual passenger boardings at U.S. airports as shown in Figure 9. In FY 2017, total enplanements reached an all-time high of 840 million, with international enplanements of 97 million and domestic enplanements of 743 million. Domestic enplanements represent approximately 88 percent of total U.S. passenger traffic at commercial service airports.

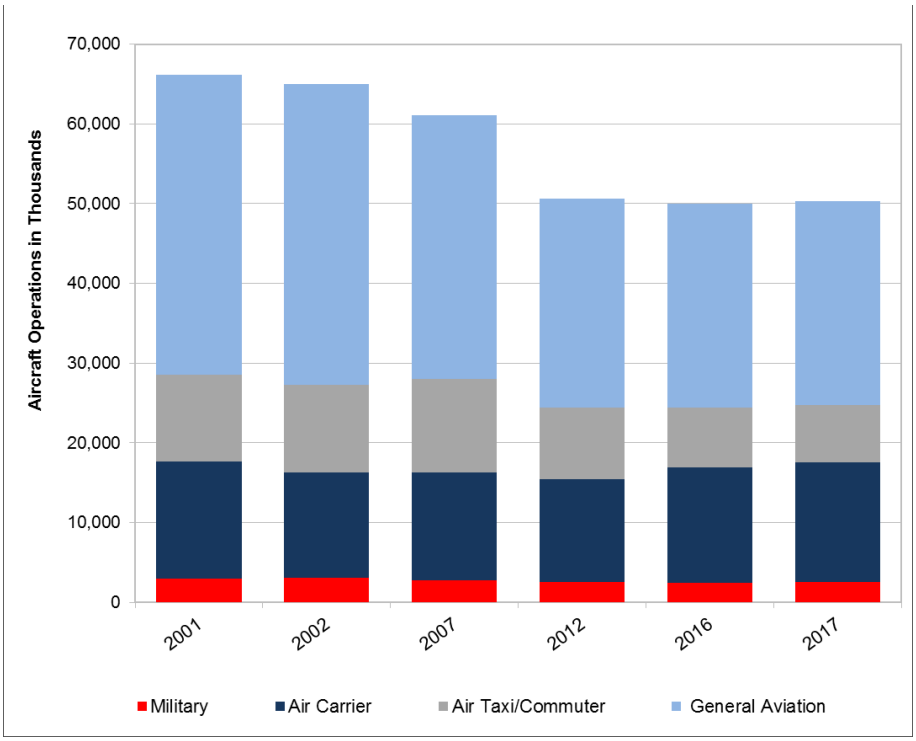
[29]FAA Aerospace Forecast, FY 2018-2038, is available online at: www.faa.gov/data_research/aviation/.
[30]The 2017 TAF is available online at: taf.faa.gov/.

Figure 9: Domestic and International Enplanements (2001–2017)



There have been changes in aircraft operations as measured at the airports with airport traffic control towers as shown in Figure 10. Currently, 517 airport traffic control towers report traffic counts. Air carrier operations increased 16 percent in the last 5 years. Ondemand/commuter and general aviation operations at towered airports continue to decline.

Figure 10: Aircraft Operations at Airports with FAA and Contract Control Towers (2001-2017)



The changes in aircraft operations reflect air carriers' capacity restraint in better matching available seats with demand, the shifting of larger aircraft to international services, and the use of 70- to 90-seat regional jet aircraft in place of smaller 50-seat regional jets. The combined activities of air carrier and air taxi/commuter operations account for 44 percent of total operations at airports with airport traffic control towers. Operations by military aircraft at commercial service airports are approximately 5 percent of the total operations. General aviation operations at airports with airport traffic control towers have decreased 32 percent since 2002. Many of these operations have shifted to the surrounding nonprimary airports.

Forecast for Commercial Aviation

The FAA forecasts that despite growth in passenger demand, aviation traffic in terms of flight operations will continue to grow more slowly over the long term, averaging 1.5 percent growth per year. Air carriers continued to fine-tune their business models to minimize financial losses by lowering operating costs, eliminating unprofitable routes, and grounding older, less fuel-efficient aircraft. To increase operating revenues, air carriers initiated new services that customers are willing to purchase. These changes, along with capacity discipline, have resulted in an eighth consecutive year of profitability for the industry. Going into the next decade, there is optimism that the industry has transformed from a capital intensive, highly cyclical industry to an industry that generates solid returns on capital and sustained profits.

CARGO

Air cargo (domestic and international freight air/express and mail) is moved in both the bellies of passenger aircraft and in dedicated all-cargo aircraft. Air cargo carriers face price competition from alternative shipping modes, such as trucks, container ships, and rail cars. Air transportation is generally the preferred mode for the shipment of high-value, lightweight, and perishable goods.[31] In 2017, 29 percent of exports and 26 percent of imports measured by value were shipped by air.[32] In 2015, 8 of the 25 busiest international freight gateways (seaports, land ports, and airports) by value of shipment were airports.[33] Lower shipping costs and more frequent service have made air cargo a major factor in the way global business is conducted.

Air cargo is generally concentrated at busy commercial service airports. The majority of air cargo flights usually occur during off-peak periods and do not substantially contribute to airport congestion and delay problems. The principal need for airport development to support cargo operations is related to cargo sorting and transfer facilities developed by the package express carriers. These airports must have high-capacity, all-weather runway systems to support reliable operations.

[31]Air cargo accounts for less than 1 percent of imports and exports by weight.
[32]Source for air, water, and total – U.S. Department of Commerce, U.S. Census Bureau, Foreign Trade. FT920: U.S. Merchandise Trade: Exhibit 1–U.S. Exports and Exhibit 4–U.S. General Imports, December 2017. Available at: www.census.gov/foreign-trade/Press-Release/2017pr/12/ft920/index.html.
[33]Source – U.S. Department of Transportation, Bureau of Transportation Statistics, Transportation Statistics Annual Report 2017, Chapter 3, available at: www.bts.gov/TSAR as of March 2018.

Forecast for Cargo

Factors that affect air cargo growth are Gross Domestic Product, fuel prices, real yields, and globalization. The fleet of cargo jet aircraft is expected to increase from 855 in 2017 to 1,178 in 2038. Revenue Ton Miles (RTMs) are expected to increase at an average annual rate of 3.8 percent over the next 20 years. In 2017, all-cargo carriers carried 89 percent of domestic cargo RTMs.

GENERAL AVIATION

Eighty-nine percent of NPIAS airports are classified as nonprimary airports and serve mainly general aviation activity. General aviation activity, as measured by total operations at airports with control towers, has decreased 2 percent in the last 5 years and 34 percent since 2000. Much of the decline in the later parts of the decade can be attributed to economic conditions, high fuel prices, and other factors.

The term "general aviation" encompasses a diverse range of commercial, governmental, and recreational uses. While it is often easier to consider what general aviation does not include—scheduled airline and military activity—this does not sufficiently define general aviation activity. To better understand this segment of the industry and the resulting requirements for the airport and air traffic system, each year the FAA surveys the general aviation community through general aviation and 14 CFR, part 135,[34] activity surveys. These surveys ask respondents to indicate the types of uses of their aircraft and the number of hours flown, as well as the type of aircraft flown, flying conditions, fuel consumption, and aircraft age.

Table 5 summarizes the results of the CY 2014 and CY 2016 surveys by types of uses. The percentages are based on the number of actual hours flown. While personal use of general aviation aircraft (31.7 percent) is the single largest use category, the combined nonpersonal uses of general aviation aircraft represent the majority (54.3 percent) of all general aviation activity. It is notable that instructional uses comprise the second largest use category and is increasing.

For the past 20 years, the majority of commercial airline pilots have been trained through civilian training systems rather than through the military. Instructional training for all pilots, whether pursuing flying recreationally or as a career, is best conducted away from commercial service airports to preserve commercial service airport capacity and enhance reliability for airline schedules. For these reasons, instructional training is currently focused at general aviation airports.

[34] 14 CFR, part 135, Operating Requirements: Commuter and On Demand Operations and Rules Governing Persons On Board Such Aircraft.

Table 4: General Aviation and CFR Part 135 Activity Survey, Actual Hours Flown by Use, CY 2014 and CY 2016

Category	Percent of Total	
	2014	2016
General Aviation Use		
Personal Use[1]	29.5%	31.7%
Instructional	16.4%	19.7%
Corporate/Executive (with paid flight crew)	12.2%	10.3%
Business (without paid flight crew)	7.5%	7.2%
Aerial Observation	6.4%	5.8%
Other[2]	4.5%	3.8%
Aerial Application Agriculture	4.0%	3.5%
Other Work Use	1.1%	1.7%
External Load (Rotorcraft)	0.7%	0.6%
Aerial Application Other	0.7%	0.6%
Sightseeing	0.8%	0.7%
Air Medical	0.5%	0.4%
Subtotal	**84.3%**	**86.0%**
On-Demand Federal Aviation Regulation Part 135 Use		
Air Taxi and Air Tours	12.6%	11.0%
Part 135 Air Medical	3.1%	3.0%
Subtotal Part 135 Use	**15.7%**	14.0%
Total All Uses	**100.0%**	**100.0%**

[1] "Personal use" includes recreational flying, family use and tourism, but also includes flying in order to stay current with license requirements.

[2] "Other" is defined as positioning flights, proficiency flights, training, ferrying, sales demos, etc.

Source: General Aviation and Part 135 Activity Surveys – CY 2016

The results of the survey demonstrate the role general aviation plays in accommodating commerce throughout the United States. It is estimated that thousands of passengers are carried on business and corporate aircraft each year. Business and corporate aircraft also move airfreight,[35] ensuring overnight delivery of high-priority business documents and providing just-in-time delivery of parts to manufacturing plants.

On-demand air taxi services provide air access to communities not served by commercial airlines and additional access to communities with airline service. Air medical services provide rapid access to emergency medical services that cannot be provided on scheduled airline aircraft and in many rural parts of the country, which may not be served by scheduled airline activity. Aerial application includes activities, such as fertilizing for agricultural purposes or fighting forest fires. Aerial observations include patrolling pipelines or the electrical grid infrastructure to ensure safety and reliability of these energy systems, identifying forest fires early in their development, or surveying wildlife and natural habitats.

[35]Large transport aircraft carrying air cargo are included with the air carrier counts as many of these operators operate under similar regulations to commercial airlines carrying passengers.

General aviation also encompasses public aircraft operations within these use categories. Examples include the use of general aviation, which provides nearly all inland search and rescue services, homeland security, law enforcement, and disaster relief activities by other nonmilitary government agencies. These activities are not identified separately, but are included within each use category. In 2016, public-use aircraft flew 7.1 percent of the total general aviation hours. General aviation also includes the humanitarian services, such as transporting patients to medical centers or delivering relief supplies to areas following natural disasters.

As evidenced by the diverse range of activities, general aviation has various land use, airspace, and air traffic requirements that are much different from the requirements for commercial air service. This necessitates a system of airports that is flexible in design and construction to accommodate these uses. General aviation airports are included in the NPIAS because they have the capacity to accommodate these varied uses and roles.

Forecast for General Aviation

The FAA forecasts the fleet[36] and hours flown for single-engine piston aircraft, multiengine piston, turboprops, turbojets, piston and turbine-powered rotorcraft, experimental and sport aircraft, and "other" (which consists of gliders and lighter than air vehicles).

The U.S. general aviation manufacturing sector experienced a significant decline (48 percent) in deliveries in 2009 and in 2016 (4 percent). Single engine piston aircraft accounted for 45 percent of the deliveries in 2016 and business jet deliveries showed modest increase, but turboprop deliveries continued to decline. Based on figures released by the General Aviation Manufacturers Association (GAMA),[37] U.S. manufacturers of general aviation aircraft delivered an estimated 1,525 aircraft in CY 2016, 4.2 percent less than in CY 2015.

The long-term outlook for general aviation driven by turbine aircraft activity remains stable. The active general aviation fleet is projected to remain flat over the next 20 years. The more expensive and sophisticated turbine-powered fleet is projected to grow at an average annual rate of 2.0 percent with the turbine jet portion increasing at 2.2 percent a year. Fixed-wing piston aircraft, the largest segment of the general fleet, is predicted to shrink over the forecast period by 23,750 aircraft (at an average annual rate of 0.9 percent). Created in 2005, the light-sport aircraft category is the smallest segment of the fleet but forecasted to grow by 3.6 percent annually, adding about 2,850 new aircraft by 2038.

OTHER FACTORS IMPACTING AIRPORTS

Capacity is affected not only by the volume of air transportation but also by the way in which airlines and other users operate. The FAA anticipates that airlines will continue to concentrate their schedules at their primary hubs where large numbers of flights converge in short periods of time to maximize the opportunity for passenger transfers. No new airline hubs are expected to arise within the next 5 years.

[36]The FAA forecasts active aircraft only. An active aircraft is one that flies at least 1 hour during the year.
[37]GAMA 2016 General Aviation Statistical Databook and Industry Outlook is available online at: gama.aero/facts-and-statistics/statistical-databook-and-industry-outlook/.

Low-cost carriers frequently serve major metropolitan areas by using less-congested, secondary commercial service airports where existing facilities are underutilized. In the past, this occurred in communities where a legacy carrier served the major hub airport. More recently, low-cost carriers have also been initiating service at major airports.

The globalization of the airline industry, the rapid growth of air transportation in other parts of the world, and the increased range and flexibility in the size of international aircraft will combine to bring international passenger service to more U.S. airports. There are more than 400 routes connecting North America and cities in Europe, an increase of 25 percent since 2012. Low cost carriers (both U.S. and European) are branching into international service and providing nonstop international flights to nontraditional gateways in the U.S. and Europe. The effects will vary but may include requirements for longer runways, terminal building expansion, and provision of Federal inspection facilities for immigration, customs, and agriculture at airports where international traffic was previously limited but is now increasing.

The increasing number of jet aircraft in the general aviation fleet may result in a demand for longer runways at certain general aviation airports, particularly those with regular use (500 or more annual operations) by business and corporate aircraft.

Large Aircraft

Airports in the United States continue to plan and develop facilities for large aircraft currently operating in the system. The Airbus A380 and the Boeing 747-8 may require special consideration due to their fuselage length, wingspan, and weight. Airports continuously upgrade terminals and airfield configuration, including underlying structures, such as bridges and culverts, to accommodate the aircraft's heavier weight or taxiing routes.

Industrial Aviation

Many airports support activities that are more industrial in nature, ranging from maintenance, repair, and overhaul (MRO) (which occurs nationwide)[38], to specialized aviation services, such as paint and interior completion, to aircraft assembly, fabrication, and manufacturing. A number of airports that support industrial activities have a military history, due in part, to the infrastructure developed by the military and left behind, sometimes including large hangars and specialized facilities capable of supporting industrial aviation activities.

While the landside facilities supporting this type of activity are generally not AIP-eligible, the FAA continues to work with industry stakeholders to determine how industrial activities might be considered in determining an airport's role in the national airport system as described in chapter 1. Airports with industrial aviation tend to be primary airports or large nonprimary airports that already meet the NPIAS criteria. A better understanding and characterization of these industrial aviation facilities is important to keeping domestic airports competitive in a global aerospace industry. Industrial airports provide critical infrastructure that supports essential services that are relied upon by the broader aviation community. A few examples of airports with industrial aviation components are listed below:

[38]Source: 2018-2028 Global Fleet and MRO Market Economic Assessment (arsa.org/news-media/economic-data/).

- Boeing Field/King County International Airport in Seattle, Washington (primary)
- Charleston Air Force Base/International Airport in Charleston, South Carolina (primary)
- Savannah/Hilton Head International Airport in Savannah, Georgia (primary)
- Pensacola International Airport in Pensacola, Florida (primary)
- Melbourne International Airport in Melbourne, Florida (primary)
- Snohomish County (Paine Field) in Everett, Washington (nonprimary)
- Cecil Airport in Jacksonville, Florida (nonprimary and commercial space launch site)
- Kelly Field in San Antonio, Texas (nonprimary)

Industrial airports are often large in scale and require substantial land, as well as varying levels of access to the airfield, depending upon the specific functions involved. Because of the commercial nature of the facilities, effective planning for such functions requires extensive early coordination with the FAA's planning, environmental, and compliance specialists. Although some industrial aviation activities require considerable real estate (airside and landside), industrial aviation activities are rarely airspace-intensive.

Rural Aviation

Transportation systems (including air, rail, highways, and waterways) connect communities, business, people, and provide critical support functions. These connections are important to Americans, particularly those 86.3 million people living in rural areas, where a general aviation airport may provide the only means of transportation, providing critical community access for aeromedical flights, disaster relief, search and rescue, aerial application of agricultural agents, time-critical delivery of medicine, tools, mail and other documents, and other key functions.

Aviation is critical for rural areas for other reasons as well, recognizing that the Nation's ability to generate sufficient food for the U.S. populace depends heavily on widespread agricultural regions and the people who make a living in these endeavors. For example, swift delivery of a replacement part for an irrigation system may be the critical factor in being able to save an entire season's crop yield.

More than 1,000 NPIAS airports are located in areas that are outside of metropolitan or micropolitan statistical areas, and many of these airports are vital to the livelihood of these communities for the functions outlined above.

Unmanned Aircraft Systems

An unmanned aircraft systems (UAS), sometimes called a drone, includes an aircraft without a human pilot onboard, a ground-based control station, and a communications link connecting all the components. In recent years, UAS have become more and more popular both as a hobby and for commercial purposes. UAS are changing the way countless jobs are done, from movie filming and real estate marketing to agricultural mapping and disaster response. The FAA is monitoring these trends closely in order to evaluate and quantify how the growth of UAS may affect future trends in more traditional general aviation activity.

UAS come in a variety of shapes and sizes and serve diverse purposes. They may have a wingspan as large as a Boeing 737 or be smaller than a radio-controlled model airplane. Regardless of size, they are all aircraft, and the responsibility to fly safely applies equally to manned and unmanned aircraft operations.

The FAA is working closely with a broad range of Federal agencies, as well as State, county, and local governments to address the regulatory requirements necessary to accommodate and integrate UAS operations without impacting the safety and efficiency of the traditional air transportation system. Additional information is available online at: www.faa.gov/uas/.

Commercial Space Transportation

The FAA licenses and regulates U.S. commercial space launches and reentries and the operation of commercial space launch and reentry sites. As defined in statute, the FAA's mission in this context is to ensure protection of the public, property, the national security, and foreign policy interests of the United States during commercial launch or reentry activities and to encourage, facilitate, and promote U.S. commercial space transportation.

Commercial space transportation generally consists of the launch of payloads or space flight participants into orbit for either commercial or government customers by private, nongovernment entities called launch service providers. Commercial space transportation also covers suborbital launches where a vehicle containing a payload or space flight participants is launched on a trajectory that briefly goes into space but returns to Earth without going into orbit. The FAA also regulates the planned reentry of vehicles from space to Earth.

Vehicles are launched from licensed launch sites referred to as commercial spaceports. The FAA has granted launch site operator licenses to 10 commercial space launch sites located in the following seven States: Alaska, California, New Mexico, Oklahoma, Virginia, Texas, and Florida. At this time, five licensed launch sites are collocated with public-use NPIAS airports that accommodate both aviation and space operations. The collocated licensed launch sites are listed below:

- Mojave Air and Space Port – Mojave, California;
- Clinton-Sherman Airport – Burns Flat, Oklahoma;
- Midland International Air and Space Port – Midland, Texas;
- Houston Spaceport at Ellington Airport – Houston, Texas; and
- Cecil Airport – Jacksonville, Florida.

This page is intentionally left blank.

CHAPTER 4: DEVELOPMENT REQUIREMENTS

CAPITAL PLANNING OVERVIEW

The development needed to provide an adequate national airport system, as shown in this report, is derived from locally prepared airport master plans, airport system plans[39], capital improvement plans, and airport inspections. These airport planning documents consider all significant aviation requirements and are tied to the current use and condition of each airport and the forecast increase in activity. Typically, operators of individual airports prepare airport master plans usually with the assistance of consultants.

FAA planners compile data on development that is eligible for Federal AIP funding and likely to be justified by the aviation activity forecast over the next 5 years. This process results in a reasonable and well-documented estimate of future airport project requirements. However, the actual timing and cost of development may vary from the airport master plan. For instance, projects may be deferred or developed in phases in order to reduce immediate costs or, conversely, an unexpectedly rapid increase in aeronautical activity may justify accelerating certain development.

State airport system plans are also used as a data source for the NPIAS. The State system plan includes airport locations considered important to State air transportation objectives, as well as those that are of sufficient national interest to be included in the NPIAS. These plans play a part in the development of the airport role and conditions and performance information. However, aviation system plan recommendations on capital development at individual airports (or for a State aviation system plan) are usually secondary to airport master plan information. The State or regional system plan typically identifies broad needs or priorities within its jurisdiction, rather than detailed projects and cost estimates.

The FAA encourages airports to consult with airlines and other user groups about major airport investment programs. Airlines have questioned the scope and timing of specific development proposals, including major new airports, ground access projects, and certain terminal and airfield improvements. The NPIAS generally reflects the airport operator's viewpoint about the scope and timeframe for proposed development.

All development projects reflected in the NPIAS have been determined by the FAA to be eligible for AIP funding and likely to be justified within the 5-year timeframe. However, the planned development consistently exceeds the funding available from the AIP each year. In addition, although some projects are AIP-eligible, the individual airport may not have access to sufficient AIP funds in eligible categories. As but one notable example, public-use portions of passenger terminals are eligible for AIP funding—but only nonhub primary airports and designated relievers can get AIP discretionary funding for terminals. Other types of airports would have to use AIP entitlement funds for terminal projects. Therefore, although all of these

[39] An airport master plan is a detailed, long-term development plan for an individual airport. Airport system plans (regional and State) study the performance and interaction of an entire aviation system to understand the interrelationships among and between individual airports.

5-year capital estimates are AIP-eligible, some project may ultimately be funded by other sources, including PFC revenues or other airport revenue or financing provisions.

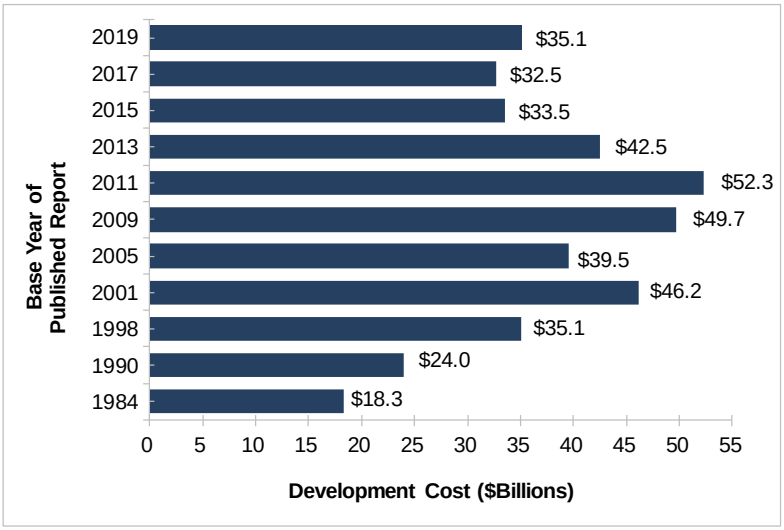
It is also important to note that even for a project that has been determined to be eligible and justified, a benefit-cost analysis (BCA) is also required for capacity projects involving $10 million in AIP discretionary funds over the life of the project or for any project where the airport sponsor is requesting a letter of intent (a multiyear commitment of Federal AIP support). In some cases, the estimate contained in this report may include projects for which a BCA has not yet been completed or validated by the FAA.

While a project may be justified operationally by relatively few operations of a new aircraft or class of aircraft, quantifying the associated benefit of these operations can be a challenge. In addition, BCAs do not consider the mere shift of passengers or operations from one airport to another as a benefit to the system because it is done from a national perspective; such transfers between regions are considered to have a neutral overall impact on the national economy. Many benefits will not be realized until a project is completed and commissioned, which may be years after the BCA was completed.

The authorizing statute exempts other types of projects, particularly safety and standards projects, from the BCA process because the underlying value of the type of project has already been subject to economic evaluations required through FAA regulations and advisory circulars.

Moreover, although the FAA relies on BCA results, and other considerations in making AIP discretionary funding decisions for capacity projects, the FAA does not generally use BCA results to determine a project's ranking on the FAA's list of reviewed projects that are eligible for AIP discretionary funds in a given year. Governing legislation for the AIP identifies a number of other factors, such as safety, congestion relief, intermodal connections, quality of the environment, and capacity, for priority consideration.

Figure 11: Development Needs (1984-2019)



DEVELOPMENT COSTS

This report reflects the costs associated with capital development projects needed between 2019 through 2023 that are AIP eligible and do not have funding sources identified. The 5-year estimates contained in this report ($35.1 billion) are 7.4 percent higher than those found in the 2017 edition. These estimates were largely compiled in FY 2017 and validated in FY 2018. Since the last report was prepared 2 years ago, construction costs have increased 0.4 percent.[40]

[40]Source: Civil Works Construction Cost Index System calculated by the U.S. Army Corps of Engineers, September 30, 2015. Comparing construction costs for FY 2015 and FY 2016.

The $35.1 billion total is comprised of approximately 16,350 projects at 2,955 existing and 7 new airports. Eighty-nine percent of the airports have AIP-eligible development identified through 2023. However, 372 airports do not have development identified over the next 5 years, including 236 unclassified airports.

Airport projects in the NPIAS are based on eligible and justified needs consistent with the role of the airport in the national system. Projects are categorized by the principal purpose of the development and the airport type or role. There are 11 project purposes and 10 airport types. Development totals by airport type and purpose are shown in Table 6. Costs associated with planning (master, regional, and State system plans and environmental studies) are not reflected in tables 6 and 7 or in appendix A. For the 5-year period covered by this report, planning costs total $397 million, which is an increase of $16.5 million (4.4 percent) with nonprimary airports accounting for 52 percent and primary airports accounting for 48 percent.

Table 5: 2019–2023 NPIAS Costs by Airport and Development Category (2017 $ Millions)

Development Category	Large	Medium	Small	Nonhub	National	Regional	Local	Basic	Unclas-sified	Proposed Airport	Total	% of Costs
Safety	$84	$63	$164	$326	$91	$117	$72	$36	$0	$0	$953	2.72%
Security	$0	$9	$9	$19	$11	$5	$5	$2	$0	$0	$60	0.17%
Reconstruction	$2,697	$1,771	$1,544	$1,848	$765	$1,811	$1,914	$789	$7	$0	$13,146	37.50%
Standards	$1,452	$785	$880	$2,038	$825	$1,806	$2,633	$1,146	$0	$0	$11,565	32.99%
Environmental	$215	$116	$141	$50	$4	$20	$9	$22	$0	$0	$577	1.65%
Noise	$381	$37	$67	$65	$33	$22	$0	$0	$0	$0	$605	1.73%
Capacity	$2,001	$98	$202	$172	$65	$269	$249	$93	$0	$0	$3,149	8.98%
Terminal	$1,427	$760	$1,076	$625	$18	$71	$82	$40	$0	$0	$4,099	11.69%
Access	$0	$37	$78	$146	$30	$81	$62	$32	$0	$0	$466	1.33%
New Airport	$0	$0	$0	$0	$0	$0	$0	$0	$0	$282	$282	0.80%
Other	$0	$0	$1	$43	$2	$38	$45	$27	$0		$156	0.44%
Total	$8,257	$3,676	$4,162	$5,332	$1,844	$4,240	$5,071	$2,187	$7	$282	$35,058	100.0%
Percentage	23.55%	10.48%	11.87%	15.21%	5.26%	12.09%	14.46%	6.24%	0.02%	0.8%	100.0%	

For comparison purposes, the development requirements contained in the previous edition of the NPIAS (2017–2021) are shown in Table 6.

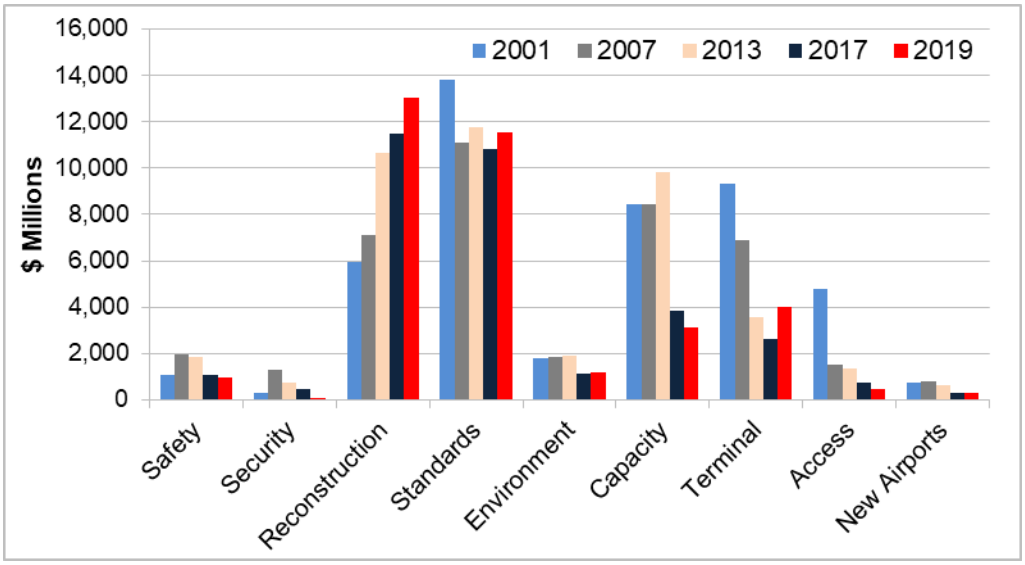
Table 6: 2017–2021 NPIAS Costs by Airport and Development Category (2015 $ Millions)

Development Category	Large	Medium	Small	Nonhub	National	Regional	Local	Basic	Unclas-sified	Proposed Airport	Total	Percent
Safety	$250	$105	$140	$313	$68	$68	$72	$38	$0	$0	$1,052	3.2%
Security	$50	$20	$25	$53	$67	$61	$127	$72	$0	$0	$475	1.5%
Reconstruction	$2,180	$1,403	$1,426	$1,920	$683	$1,531	$1,649	$703	$6	$0	$11,502	35.2%
Standards	$892	$675	$922	$1,803	$728	$1,894	$2,748	$1,181	$2	$0	$10,845	33.2%
Environmental	$64	$56	$182	$55	$2	$17	$16	$13	$0	$0	$406	1.2%
Noise	$416	$83	$82	$91	$44	$17	$2	$0	$0	$0	$735	2.3%
Capacity	$2,379	$337	$245	$176	$109	$207	$175	$67	$0	$0	$3,696	11.8%
Terminal	$401	$368	$1,084	$661	$2	$39	$56	$25	$0	$0	$2,636	8.1%
Access	$176	$74	$60	$175	$42	$105	$93	$32	$0	$0	$758	2.3%
Other	$0	$2	$1	$13	$3	$29	$48	$26	$0	$0	$122	0.4%
New Airport	$0	$0	$0	$0	$0	$0	$0	$0	$0	$321	$321	1.0%
Total	$6,807	$3,123	$4,168	$5,260	$1,747	$3,968	$4,988	$2,157	$8	$321	$32,548	100%
Percentage	20.9%	9.6%	12.8%	16.2%	5.4%	12.2%	15.3%	6.6%	0.03%	1%	100%	

DEVELOPMENT BY TYPE

All AIP-eligible projects are categorized based on the principal purpose of the development. Figure 12 compares the type of development identified in the current report to the five previous reports. Increases in reconstruction, standards, and terminal projects are anticipated over the next 5 years. Decreases in safety, security, and capacity projects are anticipated through 2023.

Figure 12: 5-Year AIP-Eligible Development Costs by Category, FYs 2001–2019

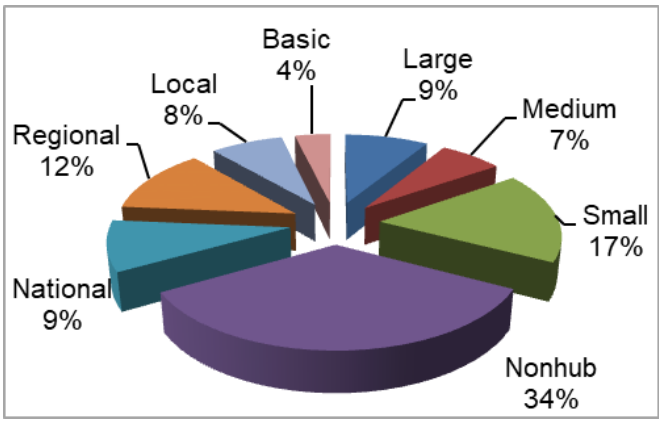


Listed on the following pages are the development categories, a short description of each, charts illustrating the percentage of development by airport category, and other relevant information.

Safety and Security

Safety and security projects include development that is required by Federal regulation, airport certification procedures, or design standards and are intended primarily for the protection of human life. These two categories account for almost 3 percent ($1 billion) of the funding needs identified in the NPIAS. The FAA gives safety and security development the highest priority to ensure rapid implementation and to achieve the highest possible levels of safety and security.

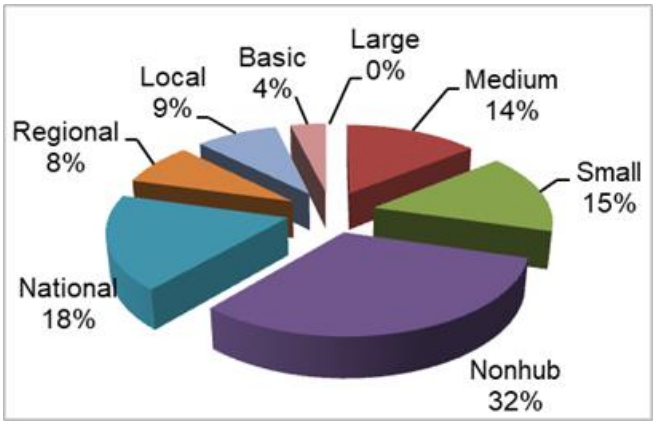
Figure 13: Safety



Projects included in the safety category include obstruction lighting and removal, acquisition of ARFF equipment required by Part 139, construction or expansion of ARFF buildings, and continued improvements to RSAs. Safety development totals almost $1 billion, a decrease of $99 million from the last report, largely reflecting the fact that many significant RSA improvements have now been funded and implemented. The 380 primary airports account for 67 percent of the safety projects with nonhub airports accounting for 34 percent. The 2,941 nonprimary airports account for 33 percent of these projects.

Security projects include security fencing, access control from aircraft movement areas to the terminal, and other security enhancements required by 49 CFR, part 1542, regulation. Security development totals $61 million, a decrease of $414 million from the last report. Primary airports have identified access control systems and other security improvement projects totaling $37 million (61 percent). Nonprimary airports have identified approximately $23 million (39 percent) in perimeter fencing.

Figure 14: Security



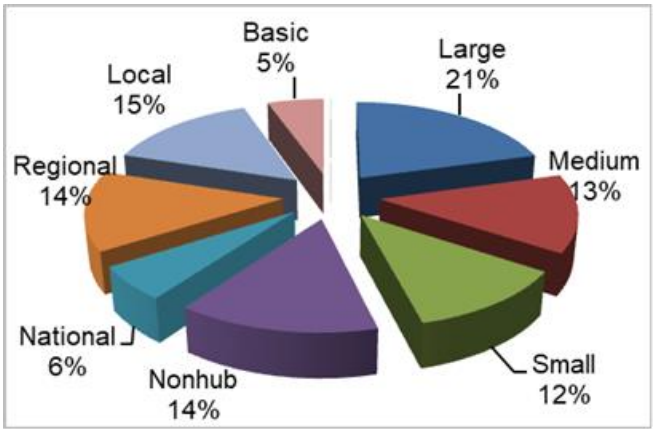
Reconstruction

Reconstruction includes development to replace or rehabilitate airport facilities, primarily runway, taxiway, and apron pavement and lighting systems that have deteriorated due to weather or use and that have reached the end of their useful lives. Failure to replace deteriorating pavement increases airport maintenance costs and can result in damage to aircraft propellers and engines, pooling water, and ice deposits that can jeopardize braking and directional control and eventually cause potholes that can damage landing gear. Airfield lighting cables and fixtures deteriorate with age resulting in dim and unreliable lighting if they are not replaced.

Reconstruction is included in the NPIAS when normal maintenance procedures are no longer economical and effective.

This category is the largest development category accounting for about 37 percent or $13 billion of NPIAS funding needs and includes the rehabilitation of pavement on a 15- to 20-year cycle. This category of development increased by 14 percent and reflects an increase in reconstruction costs by almost every type of NPIAS airport. The primary airports account for 60 percent of this development with large hub airports accounting for 20 percent. The nonprimary airports account for 40 percent of this development.

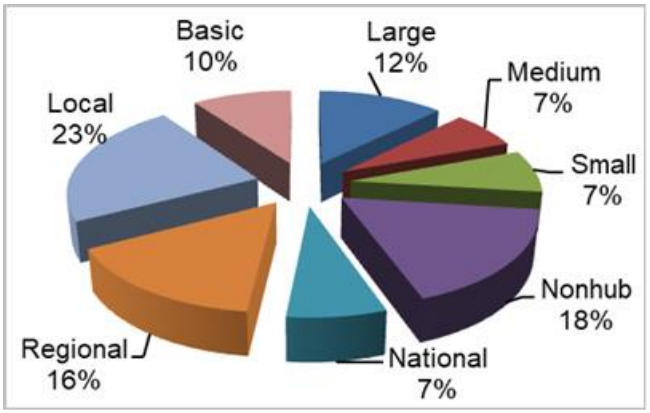
Figure 15: Reconstruction



Standards

Many airports were designed and built more than 50 years ago to serve relatively small and slow aircraft. They now serve larger and faster turboprop and jet aircraft. As a result, runways and taxiways must be relocated to provide greater clearance for aircraft with larger wingspans, taxiway geometry must be improved to correct confusing layouts, and aircraft parking areas must be adapted to accommodate larger aircraft. Standards development at general aviation and reliever airports is generally justified to accommodate a substantial number of operations by a "critical" aircraft with sizes and operating characteristics that were not foreseen at the time of original construction. If this work is not undertaken, aircraft may be required to limit fuel or passenger loads because of inadequate runway length. The FAA usually requires proof that an aircraft type or group will account for at least 500 annual local and itinerant operations at an airport (excluding touch and go operations) before the development to accommodate it is included in the NPIAS.

Figure 16: Standards

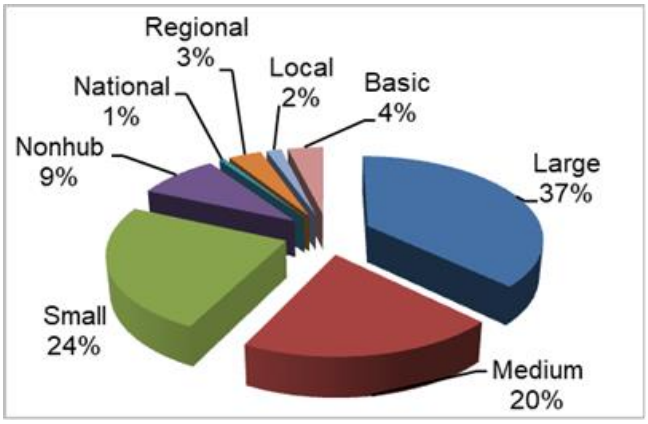


Standards projects include development that is needed to bring an existing airport into design criteria recommended by the FAA. It also includes development that is needed to comply with FAA technical and operational specifications. Examples of these projects include strengthening, widening, narrowing, relocating or extending runways and taxiways, and associated lighting; expansion of existing or construction of new aprons; acquiring equipment (e.g., snow removal, deicing, weather reporting, and approach lighting and guidance systems); and buildings for equipment, primarily for snow removal equipment or aircraft hangars.

This development category accounts for 33 percent ($11.6 billion) of the NPIAS funding needs, an increase of $724 million from the last report. Nonprimary airports account for 55 percent of this development and primary airports account for 45 percent.

Environment

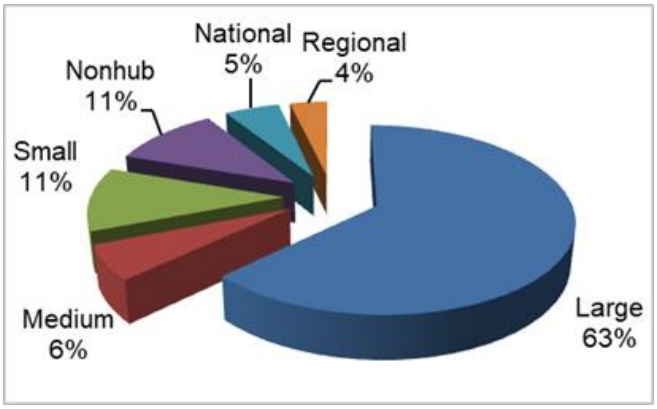
Figure 17: Environment



The environment category includes projects designed to achieve an acceptable balance between airport operational requirements and environmental requirements. These projects include replacing impacted wetlands, removing wildlife attractants, constructing deicing containment facilities, acquiring energy efficient equipment, and purchasing specialized equipment or infrastructure to help reduce airport-related air quality impacts. This category accounts for 1.6 percent ($578 million) of the NPIAS costs with large hub airports accounting for 37 percent. Thirty-eight percent of these environmental projects are for constructing deicing containment and treatment facilities.

Noise

Figure 18: Noise

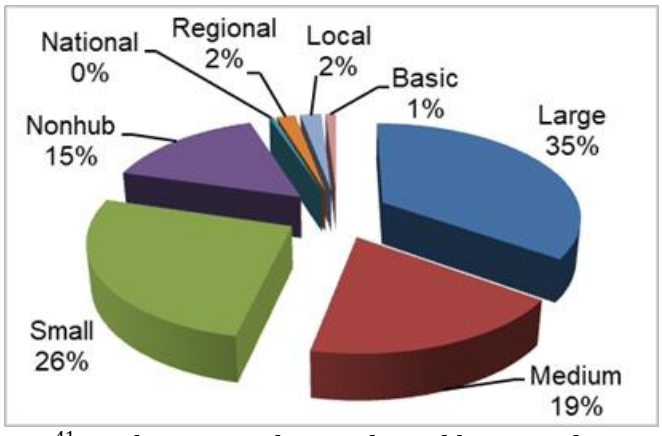


Development in this category includes projects to meet the expectations of residents of the surrounding area for a quiet and clean environment. This development supplements the noise reductions that have been achieved by quieter aircraft and the use of noise abatement flight procedures. This category accounts for almost 2 percent ($604 million) of NPIAS costs with 63 percent of the costs at large hubs. Costs are concentrated at airports with frequent flights by jet aircraft and include the relocation of households and sound insulation of residences and public buildings in noise impacted areas underlying aircraft approach and departure paths. This development is part of an extensive Federal and industry program involving land use planning, quieter aircraft, and noise abatement procedures that have reduced the estimated number of people exposed to significant noise. Development in this category includes projects to mitigate noise for residences or public buildings, noise monitoring systems, and compensation to property owners for overflights.

Terminal Building

Terminal building costs are incurred for development to accommodate more passengers and changes in aircraft fleet. This is the third largest development category accounting for 12 percent ($4.1 billion) of the NPIAS costs. Terminal costs had decreased over the last 8 years, but this report reflects a 56 percent increase in terminal costs with the large and medium hub airports showing significant increases from the 2017 report. The NPIAS only includes the public-use portion of terminals that are AIP eligible (about 50 to 60 percent) and excludes revenue-generating areas[41], such as areas that are leased by a single tenant or used by concessions, such as gift shops and restaurants.

Figure 19: Terminal Building

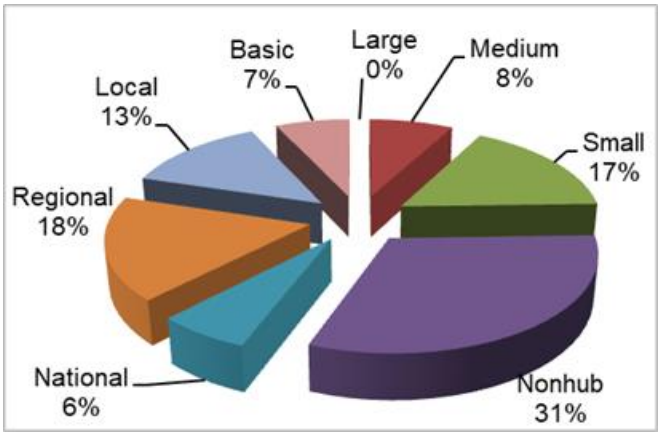


Terminal development is concentrated at the busiest commercial service airports. Funding of terminal projects, especially at large and medium hubs, tends to be accomplished through PFCs and other funding sources rather than through AIP funding.

Surface Access

Access includes the portion of airport ground access via highways and transit that is within the airport property line and eligible for grants under the AIP. Surface access currently accounts for 1 percent ($466 million) of the NPIAS costs, down 38 percent from the last report. The nonhub airports account for 31 percent of the access development needs ($145 million). The FAA encourages airport sponsors and State and local officials to develop airport master plans and airport system plans that consider passenger convenience, airport ground access, and access to airport facilities. As new airport master planning begins to explore and analyze these aspects of the airport, the decreasing trend in access projects may reverse as new and innovative surface projects are identified.

Figure 20: Surface Access

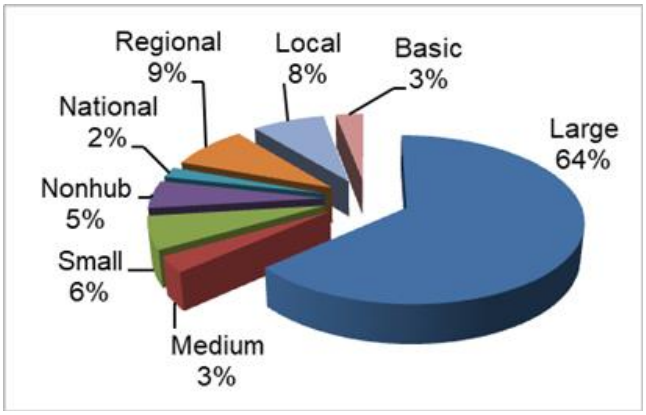


[41]Some smaller public-use airports, such as nonhub primary airports, can use AIP funds for public-use areas of a terminal that are revenue producing.

Airport Capacity

Airport capacity is development that will improve an airport for the primary purpose of reducing delay and/or accommodating more passengers, cargo, aircraft operations, or based aircraft. This is the fourth largest development category, accounting for 9 percent ($3.1 billion) of the NPIAS, and includes new runway, taxiway, and apron construction and extensions. Large hub airports account for 64 percent of the development to improve capacity or reduce delay.

Figure 21: Airport Capacity



Development to improve airfield capacity decreased 19 percent from the last report. This decrease may be due to the completion or funding of major runway extensions or new runways in the last several years. The remaining airfield capacity development included in this 5-year plan will help to reduce congestion. However, congestion problems will remain in certain large metropolitan areas, such as New York and San Francisco. The FAA will continue to focus on the need for additional capacity and increased efficiency at those locations.

New Airports

New airports and helipads are proposed in the NPIAS for communities that generate a substantial demand for air transportation and either do not have an airport or have an airport that cannot be improved to meet minimum standards of safety and efficiency. In addition, new commercial service and general aviation airports are recommended for communities where existing airports are congested and cannot be expanded to meet the forecast demand for air transportation. During the next 5 years, three general aviation airports, two nonprimary commercial service airports, and two primary airports are anticipated to open or be under development. New airport costs account for almost 1 percent ($282 million) of all NPIAS development. Development costs in this category decreased by 12 percent from the last report. This category also includes continuing AIP-eligible capital costs for new airports that recently opened or are under construction and will open beyond 2023.

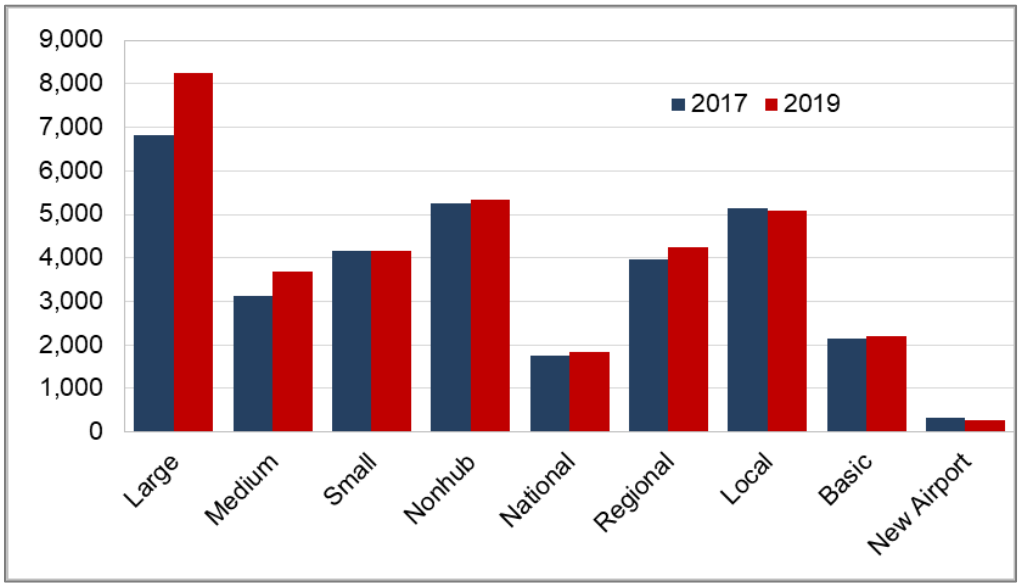
Other

This category of development accounts for about 0.4 percent ($156 million) of the total development in the NPIAS. It includes fuel farms, utilities, and construction and rehabilitation of parking lots. National, regional, local, and basic nonprimary airports account for 87 percent of this development.

DEVELOPMENT BY AIRPORT HUB AND ROLE

Figure 22 highlights the change in total AIP-eligible development by airport category from the last report. The AIP-eligible development needs increased at large and medium hub airports, 18 percent and 17 percent, respectively. Small and nonhub airports are flat or show a slight decrease in needs, -0.1 percent and 0.7 percent, respectively. Development increased at the national and regional airports, 2.5 percent and 6.7 percent, while needs at local and unclassified decreased and basic airports increased only slightly.

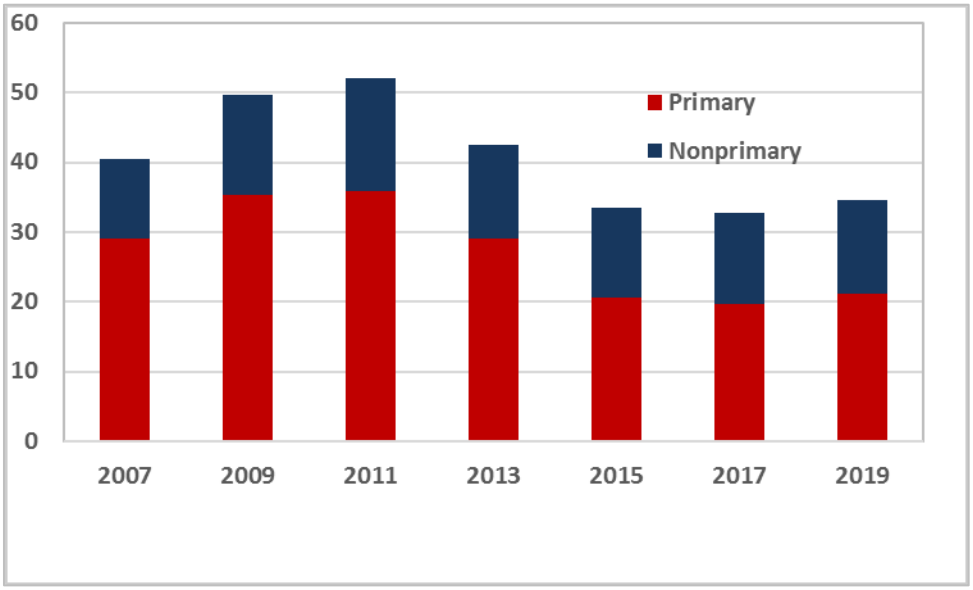
Figure 22: 5-Year AIP-Eligible Development Costs by Airport Type 2017 and 2019 Reports ($ Millions)



The $1.2 billion increase in AIP-eligible development at the large hub airports reflects an increase in terminal development along with a focus on reconstruction. While terminal projects (rehabilitation or expansion) at large and medium hub airports are generally funded with PFCs or other funding sources, they are still technically eligible for AIP funding and therefore the associated costs are properly reflected in this report. Accordingly, seven airports have identified major terminal projects that are now reflected in the report ($1.7 billion in AIP-eligible terminal development).

Figure 23 highlights the total development for primary and nonprimary airports over the last 12 years. In 2007, primary airports accounted for 73 percent ($29 billion) of the NPIAS 5-year development, and in 2019, primary airports will account for 61 percent (about $21 billion). In 2007, nonprimary airports accounted for 27 percent ($11.3 billion) of the development, and in 2019, nonprimary airports will account for $13 billion or 39 percent of the total 5-year development costs.

Figure 23: NPIAS Development–Primary and Nonprimary Airports, 2007-2019 ($ Billions)



Development to replace or rehabilitate airport pavement and lighting systems is the largest category for primary airports. The second largest development category is to bring the airport up to current FAA design standards, followed by development to improve or construct terminal buildings. Development to bring an airport up to current FAA design standards is the largest category for nonprimary airports. The second largest development category is replacing or rehabilitating airport pavement and lighting systems, followed by development to increase capacity.

ANTICIPATED SOURCES OF FUNDING

There are four major sources of funds used to finance airport capital development: airport revenue, bond proceeds, Federal/State/local grants, and PFCs. Access to these sources of financing varies widely among airports with some large airports able to generate and apply significant cash flow to capital projects and the small commercial service and general aviation airports often requiring subsidies from local and State governments to fund operating expenses and finance modest improvements.

Over the last 17 years, AIP grants have exceeded $3 billion annually. For the last 15 years, PFC collections have exceeded $2 billion annually (in many cases leveraged to pay debt service on much larger bond issues). Since 2014, PFC collections have exceeded $3 billion annually. Approximately $7.5 billion in airport bonds were issued in 2016.[42]

[42]This is the proceeds from the sale of bonds (refinancing, as well as new bonds) reported by commercial service airports for 2016 on FAA Form 5100-127.

In 2016, the commercial service airports reported to the FAA grant receipts totaling $2.01 billion and PFC collections totaling $3.2 billion. These same airports reported total expenditures of $10.3 billion in capital expenditures and construction for airport development projects, including projects eligible for AIP grants and projects ineligible for AIP grants, like automobile parking garages, and hangars.[43]

The AIP serves as an effective investment tool to fund safety, security, and airfield projects that rank highest in national priority. The PFC Program has broader eligibility than the AIP, particularly for terminal projects, noise compatibility measures, and costs associated with debt financing, and is available in significant and generally predictable amounts to large and medium hub airports. As a result, large and medium hub airports in particular have been directing the majority of their PFC revenues to terminal and landside projects, including debt financing costs, as well as noise mitigation. The majority of nonhub primary airports use PFC revenues as the local matching funds for AIP grants.

ADDITIONAL COSTS NOT INCLUDED IN THE NPIAS

The NPIAS only includes development that is eligible to receive Federal grants under the AIP. It does not include ineligible airport development, such as automobile parking structures, hangars, air cargo buildings, or the revenue-producing portion of large passenger terminal buildings.[44] In addition, it does not include:

- Development eligible under the PFC Program but ineligible under the AIP, such as leased gates and related areas;
- Improvements to assist airports to withstand or recover from severe weather events;
- Improvements to highway and transit systems beyond the airport property line;
- Improvements to air traffic control and navigation aids that may be funded by the FAA's F&E Program, including most equipment for NextGen;
- Costs associated with modifying terminals to accommodate explosive detection systems. The FAA is prohibited from funding these projects with AIP funding. However, these projects remain eligible under the PFC Program and under the Transportation Security Administration's grant program; [45]
- Development needed to address capacity shortfalls where no clear solution has yet emerged; and
- While costs associated with planning (master plans, regional and State system plans, and environmental studies) are eligible for AIP funding, they are not captured as development in this report. Between 2019 and 2023, total costs for airport planning (airport master plans, regional and State system plans, and environmental studies) are estimated at $397 million.

[43]Source: FAA Form 5100-127, Operating and Financial Summary.
[44]The authorizing legislation allows nonprimary entitlement funds to be used for hangars, provided FAA believes the airport has an adequate plan for financing all airside needs.
[45]Beginning in FY 2004, and in every year since, FAA appropriations legislation has prohibited using AIP grant funds on explosive detection systems or any building modifications that are necessary to support or install such a system.

Attachment 4

U.S. Department
of Transportation
Federal Aviation
Administration

Advisory Circular

Subject: Land Acquisition and Relocation Assistance for Airport Improvement Program (AIP) Assisted Projects

Date: 7/10/2017
Initiated By: APP-400

AC No: 150/5100-17
Change: 7

1 **Purpose.**

This change is made to update the subject advisory circular for amendments to the Uniform Relocation Act (Section 1521 of the Moving Ahead for Progress in the 21st Century Act; MAP-21). This AC contains the Federal Aviation Administration's (FAA) standards and requirements for airport land acquisition and relocation procedures in conformance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pl 91-646, as amended), also known as the Uniform Relocation Act (URA). Title 49 Code of Federal Regulations Part 24 (49 CFR 24), Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs implements the Uniform Relocation Act on AIP assisted projects and programs. This advisory circular (AC) provides guidance to airport owners and operators (sponsors) for Airport Improvement Program (AIP) assisted projects to develop their land acquisition and relocation assistance procedures in conformance to the Uniform Relocation Act and its implementing regulations.

The URA provides minimum real property acquisition policies, and requires uniform and equitable treatment of persons displaced as a result of a federally-assisted program or project. The stated purpose of the URA is to ensure that affected persons do not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public as a whole and to minimize the hardship of displacement on such persons. The provisions of the URA and 49 CFR Part 24 apply to all AIP projects with federal funds in any phase or portion of the project, i.e., the planning, design, land acquisition, or construction phases.

2 **Cancellation.**

AC 150/5100-17, *Land Acquisition and Relocation Assistance for Airport Improvement Program (AIP) Assisted Projects,* change 6, dated November 7, 2005, is cancelled.

3 **Application.**

The FAA requires the procedures and documentation standards described in this AC for use in implementing land acquisition and relocation assistance measures on AIP programs and projects. The FAA on AIP programs has the responsibility to ensure uniform and equitable treatment to persons affected by federally-assisted airport land acquisition programs, within the provisions and entitlements of the 49 CFR 24. Use of the AC is mandatory for all projects funded with federal grant monies through the Airport Improvement Program (AIP). These procedures are recommended and reimbursable but are not mandatory for projects where all work and phases are locally funded under the Passenger Facility Charges (PFC) Program.

4 **Principal Changes.**

Changes are marked with vertical bars in the margin. The AC incorporates the following principal changes:

1. The MAP-21 eligibility and payment amendments listed below are inserted in the AC to replace the former requirement:
    a. The maximum statutory benefit for replacement housing payments for displaced homeowners is increased from $22,500 to $31,000 and replacement housing payments for displaced tenants from $5,250 to $7,200. Note this is a change to the statutory limit as a threshold amount for Housing of Last Resort Procedures (per 49 CFR 24.404, see Section 6.5 of this AC). There is no change in the eligible calculation of the replacement housing payment amount.
    b. The length of occupancy requirement for homeowners was reduced from 180 days to 90 days in occupancy before the initiation of negotiations.
    c. The MAP-21 also amended the maximum statutory benefit for business reestablishment benefits from $10,000 to $25,000, and the fixed payment for nonresidential moves from $20,000 to $40,000.
    d. By law, these changes became effective on October 1, 2014.
2. Technical corrections have been made to Appendix D Sponsor Certification of Title.
3. This AC is formatted to the current style template that results in updated paragraph numbering (see table of contents of change 7).

5 **Feedback on this AC.**

If you have suggestions for improving this AC, you may use the Advisory Circular Feedback form at the end of this AC.



Elliott Black
Director, Office of Airport Planning and Programming

CONTENTS

Paragraph **Page**

Chapter 1. Uniform Act Requirements....1-6
1.1 Applicability to Airport Improvement Program (AIP) 1-6
1.2 Project Clearance under 49 CFR Part 24 Requirements 1-10
1.3 Sponsor Program Requirements. 1-15
Chapter 2. Real Property Appraisal 2-1
2.1 Requirements. 2-1
2.2 Appraisal Procedures. 2-5
2.3 Appraisal Review. 2-15
Chapter 3. Real Property Acquisition 3-1
3.1 Requirements. 3-1
3.2 Purchase Negotiations. 3-7
3.3 Acceptance of Administrative Settlement. 3-12
3.4 Condemnation Awards. 3-14
Chapter 4. Relocation Assistance 4-1
4.1 Requirements. 4-1
4.2 Relocation Planning and Advisory Assistance. 4-6
4.3 Relocation Notices. 4-14
Chapter 5. Payments for Moving and Related Expenses 5-1
5.1 Requirements. 5-1
5.2 Residential Moving Payments. 5-2
5.3 Non-Residential Moving Payments. 5-5
Chapter 6. Replacement Housing Payments 6-1
6.1 Requirements. 6-1
6.2 90-Day Owner-Occupants. 6-3
6.3 90-Day Tenant. 6-17
6.4 Replacement Housing Payment Claims. 6-20
6.5 Replacement Housing of Last Resort. 6-24
6.6 Mobile Homes. 6-26
Chapter 7. Management of Acquired Property 7-1
7.1 Requirements. 7-1

CONTENTS (CONT.)

Paragraph **Page**

Chapter 8. Sponsor Certification 8-1

8.1 Requirements. 8-1

Appendix A. Forms Directory A-1

Appendix B. 49 CFR Part 24 ..... B-1

Appendix C. Sponsor Quality Control Program C-1

Appendix D. Guidelines for Sponsor Certification of Title D-1

FIGURES

Number **Page**

Figure 1-1. Exhibit "A" Property Inventory Map 1-9

Figure 2-1. Appraiser and Review Appraiser Qualifications 2-3

Figure 2-2. Sample Scope of Work Statement 2-6

Figure 2-3. Appraisal Report Requirements 2-7

Figure 2-4. Avigation Easements 2-11

Figure 3-1. Example of an Offer Letter and Summary Statement 3-3

Figure 4-1. Sample Displaced Occupant Questionnaire – Residential 4-9

Figure 4-2. Sample Displaced Occupant Questionnaire – Business or Non-Profit Organization.. 4-10

Figure 4-3. Notice of Eligibility (Owner) and 90-Day Notice to Vacate 4-16

Figure 4-4. Notice of Eligibility (Tenant) and 90-Day Notice to Vacate 4-1

Figure 4-5. Sample Notice of Eligibility, Non-Residential Move 4-2

Figure 6-1. RHP Eligibility Determination Form – 90-Day Owner-Occupant 6-7

Figure 6-2. Fixed Rate Mortgage Interest Differential Payment Eligibility 6-14

Figure 6-3. Adjustable Rate Mortgage Interest Differential Payment Eligibility 6-15

Figure 6-4. DSS Inspection and Certification Form 6-22

Figure 8-1. Sample Real Property Acquisition Sponsor Certification Form 8-2

Figure 8-2. Acquisition/Relocation Records Checklist 8-5

Figure C-1. Sponsor Pre-Reimbursement Federal-Aid Compliance Review Form C-4

Figure D-1. Sample Certificate of Title D-4

Figure D-2. Sample Subordination Agreement - Utility D-5

Figure D-3. Sample Subordination Agreement – Oil, Gas, and Mineral Rights D-6

CONTENTS (CONT.)

Paragraph **Page**

TABLES

Number **Page**

Table 1-1. Is the Owner's Sale to an Airport Project a Voluntary Transaction Exception? 1-8
Table 6-1. Comparable Dwelling Evaluation Grid 6-5

CHAPTER 1. UNIFORM ACT REQUIREMENTS

1.1 Applicability to Airport Improvement Program (AIP)

1.1.1 Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act)

The Uniform Act (42 USC 4601 et seq.) was enacted January 2, 1971. This law applies to any federal project or program that requires real property acquisition and displacement of people from their acquired home, business, farm, or nonprofit organization real property. The purpose of the Uniform Act is to ensure the following:

1.1.1.1 Fair and consistent treatment for owners of real property to be acquired for federal and federally-assisted projects, in order to encourage and expedite acquisition by agreements with such owners, minimize litigation and relieve congestion in the courts, and promote public confidence in federal and federally-assisted land acquisition programs

1.1.1.2 Fair, consistent, and equitable treatment for persons displaced as a direct result of federal or federally-assisted projects, so that such displaced persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole

1.1.1.3 Efficient and cost-effective federal agency implementation of these regulations.

1.1.2 AIP Grant Requirements, Airport Land Projects

1.1.2.1 Appendix Q and related sections of FAA Order 5100.38, the "*Airport Improvement Program (AIP) Handbook*," describe the sponsor grant requirements and eligibility for land acquisition and relocation costs. As described in the AIP Handbook, grant agreements require that the sponsor will:

1. Comply with the land acquisition policies in Subpart B of 49 CFR Part 24 (described in Chapters 2 and 3), to the greatest extent practicable under State law, in acquiring real property.
2. Pay or reimburse property owners for necessary expenses, as specified in 49 CFR 24.10.
3. Provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24, and provide fair and reasonable relocation payments and assistance to displaced persons, as required in Subparts D and E of 49 CFR Part 24. (See Chapters 4, 5, and 6)
4. Make comparable replacement dwellings available to displaced persons within a reasonable period prior to displacement, in accordance with Subpart E of 49 CFR Part 24.

1.1.2.2 FAA Order 5100.37B provides guidance to FAA Airports field offices regarding review and acceptance of sponsor certification, and compliance with FAA and other regulatory requirements. This Advisory Circular (AC) supplements the Order with detailed procedural and documentation guidance to airport sponsors to conform to 49 CFR 24.

1.1.2.3 The FAA's Acquisition, Relocation, and Certification (ARC) instructional application provides guidance for airport sponsors to apply 49 CFR 24 requirements for small airport land projects that involve only a few properties and little, if any, relocation. ARC is available on a CD from APP400.

1.1.3 Application of Voluntary Transaction Exemption - 49 CFR Part 24.101(b)

1.1.3.1 The regulation at 49 CFR 24.101(b) states that a property owner's sale may be considered a voluntary transaction and exempt from the land acquisition requirements (described in Chapters 2 and 3) when the owner's sale to the airport meets all of the qualifications listed below:

5. The acquisition and possession of the property is not a necessity to complete the airport project (e.g., airport purchase of a home under a sales assurance program). The sponsor should treat all selling property owners similarly when purchasing more than one property for such a project.
6. The owner's property is not part of an intended, planned, or designated project area, where all or substantially all of the property within the areas is eligible and proposed for purchase within specific time limits. An owner's sale to the airport for an airport expansion or noise buy-out project does not meet this qualification criterion.
7. The sponsor informs the property owner in writing that the airport will not purchase the owner's property if negotiations fail to result in an amicable agreement for the purchase.
8. The sponsor informs the property owner in writing of the market value of the property.

1.1.3.2 Table 1-1 applies these qualifying criteria to typical land acquisitions related to airport projects, in order to determine whether an owner's sale qualifies as a voluntary transaction. Please forward specific questions to your FAA project manager.

1.1.3.3 Under the regulation, the owner of property sold as a qualified Voluntary Transaction is not a displaced person and is not eligible for relocation assistance and payment benefits (described in Chapters 4 through 6). However, any tenant in occupancy when agreement is reached to purchase the property is displaced for the project and is eligible for all applicable relocation payments and assistance provided for under the Uniform Act.

Table 1-1. Is the Owner's Sale to an Airport Project a Voluntary Transaction Exception?

Property is Purchased For:	Is Owner's Sale a Voluntary Transaction?	Is Selling Owner Displaced?
Current or Planned Airport Expansion Project	**No**	**Yes**, and entitled to relocation payments
Airport Noise Compatibility Program • Buy-Out of Homes • Change in Land Use	**No**	**Yes**, and entitled to relocation payments
Airport Noise Compatibility Program • Purchase /Sales Assurance • No Change in Land Use	**Yes**, if owner advised in writing that no purchase of the property would occur failing amicable agreement	**No**
Open Market Sale for AIP-Eligible Airport Standards (At the time of sale, property was not required for a current or planned FAA Assisted Expansion.)	**Yes**, if owner advised in writing that no purchase of the property would occur failing amicable agreement	**No**

1.1.4 Planning and Federal-Aid Programming

Airports included in the National Plan of Integrated Airport Systems (NPIAS) are eligible to receive AIP grant funding. In order to receive funding, a project must meet the "General Requirements for Project Funding" as established in FAA Order 5100.38. The sponsor may confirm the planning status of a proposed project by consulting with the FAA project manager.

1.1.5 NEPA and FAR 150 Coordination

1.1.5.1 The sponsor must evaluate each federally funded project for compliance with the National Environmental Policy Act (NEPA) prior to commencing work. NEPA level of review may range from a categorical exclusion to a full Environmental Impact Statement (EIS) depending on the impacts of the proposed action. FAA Order 5050.4B, "*National Environmental Policy Act (NEPA) Implementing Instructions for Airport Actions," provides guidance on NEPA requirements for AIP-assisted projects*. The sponsor should consult the FAA project manager regarding any questions concerning completion of the environmental reviews.

1.1.5.2 Additionally, a land acquisition project for noise compatibility must be included as an FAA-approved measure of the airport's Title 14 Code of Federal Regulations (CFR) Part 150 Airport Noise and Land Use Compatibility Program. See Appendix R of the AIP Handbook (FAA Order 5100.38) for eligibility requirements for Noise Compatibility Programs.

1.1.6 Project Definition

The grant agreement with the FAA requires the airport sponsor to prepare and maintain a current Property Inventory Map (i.e., Exhibit "A") of airport owned land. The Exhibit "A" indicates land acquired for noise mitigation purposes and redeveloped to airport and/or aviation use, as well as land not retained for airport use (see Figure 1-1). Through the grant application and approval process, the FAA project manager will provide assistance and specific requirements for the development of the Exhibit "A" (also see FAA Order 5100.38).

Figure 1-1. Exhibit "A" Property Inventory Map

Applicants must submit the Exhibit "A" property inventory map as part of the project application. The primary intent is to identify all land that is designated airport property and to provide an inventory of all parcels that make up the airport. It is not an Airport Layout Plan (ALP) and, therefore, should be limited to only those elements that will assist in the identification of property. The Exhibit A must conform to standard drafting requirements and, at a minimum, should include identification of the following:

- Outside airport property boundary
- All property parcels of the entire airport (numbered on the property map), including parcels that were once, but are no longer, airport property
- Parcel information, including grantee (i.e., selling owner), type of interest acquired, acreage, public land record references (e.g., book and page, date of recording)
- For each property parcel, FAA project number (if acquired under a grant; Surplus Property Transfer, or AP 4 Agreement, if applicable), type of easement (e.g., clearing, avigation, utility, ROW, etc.), and date of FAA approval (if released)
- Purpose of acquisition (i.e., current aeronautical, noise compatibility, or future development) and current use (if different or in interim use pending development)
- Runway protection zones, runway configurations, and building restriction lines
- Magnetic and true north arrows per standard drafting practices
- Parcels being acquired, if submitted as part of a land acquisition project
- Changes to any airport property, dated and amended as necessary

1.1.7 Real Property Interest to be Acquired

On AIP-assisted projects, the sponsor must acquire real property rights of such nature and extent that are adequate for the construction, operation, and maintenance of the grant-assisted project. Normally the sponsor will acquire fee title to all land within the airport boundaries and for the runway protection zone (RPZ). If fee acquisition for the RPZ is not practical, then an avigation easement is required. This easement must secure the right of flight with inherent noise and vibration above the approach surface, the right to remove existing obstruction, and a restriction against the establishment of future obstructions. Generally, where less than fee title is proposed to be acquired, the property rights acquired must be sufficient to encumber the remaining real estate with provisions that will ensure full use of the property as needed for airport construction and/or for safe airport operations, conforming to FAA requirements. The FAA project manager should be consulted to assure adequate interest is acquired. As requested, the

sponsor will provide evidence of adequate title to the FAA. (See Chapter 8 for Sponsor Certification requirements.)

1.2 Project Clearance under 49 CFR Part 24 Requirements

The section provides an overview of the tasks necessary to clear a project successfully under the Federal regulatory (49 CFR Part 24) and FAA real property acquisition and relocation assistance requirements. Figure 1-2 (in Section 1.2.1) provides an overview of the typical process with the major tasks described in the following paragraphs. Subsequent chapters of this AC, as referenced through the remainder of this chapter, provide detailed procedural guidance.

1.2.1 Required Lead Time

For any airport land project, adequate lead time is required to accomplish land acquisition and provide any needed relocation assistance, in conformance to the Federal requirements (49 CFR Part 24). Lead Time[1] is estimable by scheduling the regulatory tasks to acquire needed property for a project. The actual purchase of property and payment of relocation claims will typically incur most of the eligible project expenses. However, the majority of the work required for AIP cost reimbursement or conformance to 49 CFR 24 must occur in advance of actual expenditures. Therefore, when acquiring land and relocating displaced persons for an AIP-assisted project or program, the sponsor must ensure Uniform Act compliance before any grant reimbursement or authorization of grants AIP funded construction (see Chapter 8 for Sponsor Certification requirements).

1.2.2 Title Reports, Land Surveys, and Studies

1.2.2.1 **Land titles and surveys:**

1.2.2.1.1 Accurate ownership information and property descriptions are required to initiate the appraisal process and negotiations. After securing adequate property descriptions (property needed for the project), the sponsor should order title insurance commitments in anticipation of delivery of these by the initiation of negotiations. Appraisal work may commence with preliminary title searches and abstracts that identify the fee interest, leaseholds, and any encumbrances or easements on the property to be acquired. For properties with tenant occupants, the sponsor must secure leases and other documents indicating ownership, and identify tenant-owned improvements. The cost of title work to ensure marketable title is acquired and supporting the sponsor's assurance of title (see Chapter 8 of this AC) is eligible for reimbursement as part of the AIP grant.

[1] Lead Time, which is the basis of a project clearance schedule, can be estimated by application of the following scheduling formula: Project Lead Time Estimate = (Total Parcels / Parcel Start Capacity per Agent) / (Agents X Parcel Time) + Contingency Time.

1.2.2.1.2 Property surveys and plats may be required for the acquisition of partial takes and for condemnation purposes. In addition, local customs and laws may necessitate the preparation of plats for the conveyance of needed property.

1.2.2.2 **Investigation of hazardous materials and contamination**

1.2.2.2.1 Avoidance of contaminated property*:*

As part of the project planning and environmental assessment phases, the sponsor should perform an environmental audit of hazardous material and contamination on any property needed for a project. The sponsor must avoid, or minimize the use of, contaminated property as feasible, to reduce project costs for cleanup and remediation of hazardous materials.

1.2.2.2.2 Appraisal of contaminated property*:*

Prior to the appraisal of any potentially contaminated land, the sponsor should provide the results of the environmental audit to the appraiser for inclusion in the appraisal report. Prior to completion of the appraisal, appraisers should report to the sponsor any actual property conditions that exist at a site warranting further environmental investigation. The appraiser may not condition the appraisal report with an assumption that the property is free of contamination. See Chapter 2 of this AC for further guidance on the appraisal of contaminated property.

1.2.2.2.3 Acquisition of contaminated property*:*

Where use of contaminated property is determined necessary, the sponsor should first secure a binding agreement with the property owner, and other identified responsible parties, assigning liability for property cleanup cost before acquiring title to such property. An offer to acquire contaminated property must be conditioned on the property owner's remediation of the contamination threat to public health and safety. Section 2.2.10 provides guidance on the proper consideration of contamination in appraising the fair market value of property.

1.2.2.2.4 The sponsor must rely on the environmental audit (Phase I and Phase II site studies) to identify the scope of contamination and other responsible parties who have cleanup liability. The sponsor must not undertake site remediation (Phase III), without first securing adequate assurances and indemnification from other responsible parties, and securing agreement from the regulatory agency or agencies fixing the extent of the sponsor's cleanup responsibility. A qualified environmental consultant will likely be required to assure adequate protection of the sponsor's interests in developing the remediation requirements for the use of the site in the project, and limiting any future cleanup liability. The sponsor must consult with the FAA project manager to determine if proposed site remediation costs are reimbursable under the AIP grant.

1.2.3 Preliminary Relocation Assistance Planning (see Chapter 4)

1.2.3.1 **Project planning stage:**

Early in project development, a sponsor must identify relocation assistance measures sufficient to minimize the impact of displacement on individuals, families, businesses, farms, and nonprofit organizations. Relocation planning at this stage is typically conducted as part of the NEPA approval process. The relocation plan at the project planning stage must provide an estimate of the number of displaced persons, business, farms, and non-profit organizations, and the characteristics and needs of the displaced persons (e.g., elderly, handicapped, minority, low income, etc.). The plan will relate the available supply of comparable replacement housing and suitable replacement business and farm sites, to the needs of the displaced persons. The plan will result in an estimate of the cost and time requirements for an orderly and humane relocation program as part of project development. Generally, secondary sources of information are sufficient to adequately prepare this plan.

1.2.3.2 **Acquisition stage:**

Prior to the initiation of negotiations, the sponsor must prepare a plan for acquisition stage relocation that will provide the necessary information and specific requirements for relocation of the identified displaced persons. The acquisition stage plan is prepared through interviews of displaced persons prior to the initiation of negotiations for the acquisition of a property. Additionally, the acquisition stage plan must be sufficient to establish the payment eligibility offer and ensure that adequate time is scheduled for successful relocation of any displaced persons. See Chapter 4 of this AC for detail regarding the planning requirements during the property acquisition stage.

1.2.3.3 **Realty/personalty determination:**

For complex acquisitions of improved commercial/industrial property, where a business (e.g., farm or non-profit organization) is being displaced for the project, a realty/personalty determination must be made and provided to the appraiser. The valuation must include all real estate items while items of personalty are not appraised. A formal realty/personalty determination is necessary for complex appraisals and must be developed in consultation with the property owner and any displaced tenants. Some items may require advice of legal counsel to determine whether the item is real estate or personalty. Generally, an item is considered a fixture and real estate if removal of the item would destroy the item or would substantially damage the real estate.

1.2.4 Real Property Appraisal (see Chapter 2).

The sponsor must appraise the fair market value of the real property to be acquired before negotiations with an owner are initiated. The property owner must be given the opportunity to accompany the appraiser on the inspection of the property.

1.2.4.1 **Appraiser selection:**

The sponsor must establish qualification criteria to evaluate potential appraisers. When selecting appraisers, the sponsor must review the experience, education, training, and other qualifications, and use only those professionals determined to be qualified. The appraiser must be certified under applicable state law for all appraisal assignment.

1.2.4.2 **Review of the appraisal:**

A secondary qualified review appraiser must validate each appraisal and ensure compliance with FAA requirements. The appraisal review, as required by the Uniform Act, is critical to evaluate whether the report is valid and its conclusion of valuation is reasonable. The ultimate intent of the review is to produce an adequately documented appraisal with a sound and valid recommendation for unbiased compensation to be offered to the property owner.

1.2.5 Real Property Acquisition (see Chapter 3)

1.2.5.1 **Just compensation:**

Before initiating negotiations for the property, the sponsor must establish an amount considered as just compensation for the real property. The amount must not be less than the appraised fair market value approved by the review appraiser.

1.2.5.2 **Written offer to purchase:**

Promptly following the appraisal review and the establishment of just compensation, the sponsor must make a written offer to acquire the property for the full amount of just compensation. The Uniform Act defines the date of this written offer as the initiation of negotiations**.** The initiation of negotiations typically establishes eligibility of relocation payments for displaced persons who were occupants on the property as of this date. The sponsor's negotiator must personally contact each owner with the sponsor's written offer of just compensation. Nonresident owners may be contacted by certified mail.

1.2.5.2.1 Required Negotiations Procedure*:*

The goal of negotiations is to secure an amicable purchase agreement with the property owner for the just compensation of the needed property. The airport must not undertake coercive measures to force agreement. Instead, the airport's negotiator must fully explain the airport offer and help the property owner evaluate the airport offer. The airport must also consider

property value information provided by the property owner during negotiations. If the property owner's information is creditable and/or the circumstances of the proposed acquisition change, the airport must update its offer of just compensation.

1.2.5.2.2 Settlement/condemnation*:*

Should negotiations fail to secure an agreement, an airport with eminent domain authority may proceed to take the needed property through condemnation. Airports also have discretion to enter administrative settlements when the public interest in a proposed settlement is apparent.

1.2.5.2.3 Possession of the property*:*

After reaching an agreement, the airport must pay the agreed purchase price to the owner. In the case of condemnation, the airport must deposit with the court, for the benefit of the owner, an amount not less than the approved appraisal before requiring possession of the needed property. The property owner is not required to surrender possession of their real property until just compensation is paid or deposited with the condemnation court.

1.2.6 Relocation Assistance (see Chapters 4 through 6)

1.2.6.1 **Sponsor obligations:**

It is the sponsor's obligation under the Uniform Act to provide an adequate relocation assistance program that ensures the prompt and equitable relocation and reestablishment of persons displaced as a result of the federally-assisted airport project(s). The term "person" as defined in the Uniform Act (and as used in this AC) refers to any individual (residential or business occupant), family, partnership, corporation, or association. Sponsors must provide assistance and conduct the relocation program so that displaced persons receive uniform and consistent services and payments regardless of race, color, sex, or national origin. The sponsor must maintain documentation to show compliance to the Uniform Act and its grant assurances.

1.2.6.2 **Types of relocation assistance:**

Relocation assistance activities involve relocation planning, information and notices, advisory services, relocation assistance payments (e.g., replacement housing payment, incidental closing costs, increased interest costs, residential moving costs), nonresidential (e.g., business, farms, nonprofit organizations) relocation payments (e.g., reestablishment expenses, moving costs), replacement housing of last resort, and mobile homes. Later chapters of this AC provide detail regarding specific procedural requirements for the sponsor to provide the required assistance and payments.

1.2.7 Property Management (see Chapter 7)

Property management activities include disposal or demolition of improvements, clearing of trees and vegetation, and interim use or rental of the property until needed for a subsequent construction project, if applicable. Additionally, specific grant assurances apply to the ongoing use or disposal of airport property. The airport must maintain its Exhibit "A" (refer to Figure 1-1) to ensure it has a current inventory of airport property.

1.2.8 Sponsor Certification (see Chapter 8)

The sponsor must certify that real property was acquired in conformance with the Uniform Act. The sponsor must also certify, as applicable, that all persons displaced from their homes for the project were offered comparable replacement housing and that all persons in occupancy at the initiation of negotiations had vacated the property and were provided reimbursement of their moving expenses to a replacement site in accordance with the requirements of the Uniform Act. This certification must be provided concurrently with a sponsor's request for reimbursement and must cover the specific parcels for which the sponsor is requesting reimbursement of costs.

1.3 **Sponsor Program Requirements.**

1.3.1 Sponsor Organization and Staffing Requirements.

1.3.1.1 Conformance to Uniform Act requirements necessitates sufficient professional staff and operational procedures to assure property owners and displaced persons are provided all entitlements and protections contained in the Uniform Act. This AC provides detailed procedural guidance, sample documentation formats, and quality control requirements to assist sponsor compliance and AIP reimbursement eligibility. Sponsor staff and/or their consultant must demonstrate an adequate working knowledge of 49 CFR Part 24 requirements and the capability and expertise to complete the work proposed in conformance to applicable requirements.

1.3.1.2 Where the sponsor does not have sufficient qualified staff available for a project, the sponsor may secure qualified property acquisition and relocation consultant services. When soliciting consultants,[2] land acquisition and relocation assistance are considered professional program management services and should be selected based on adequate qualifications. Sponsors should include the following qualification requirements in their request for proposals/qualifications:

[2] For AIP funded projects, the hiring of appraisers, acquisition and relocation consultants must conform to requirements of AC 150/5100-14. Appraisal and acquisition/relocation services are included in "certain other related areas" as described within that document. Eligibility requirements for contracting professional services are detailed in Chapter 9 of the AIP Handbook (FAA Order 5100.38).

- An understanding of the governing regulations provided at 49 CFR Part 24, FAA policies described in AC 150/5100-17A and other applicable law and regulation provided under state and local law
- Experience and expertise to undertake real property acquisition and relocation assistance functions as prescribed under the governing regulations and this AC
- Ability to undertake and complete the required work within your proposed project schedule[3]
- A listing of references for current jobs and completed projects that the Sponsor may contact
- Education and training evidencing expertise and competence to perform professional real property acquisition and relocation assistance work
- Professional designation, license, or certification
- Quality control system to ensure Uniform Act compliance and adequate documentation to ensure maximum FAA reimbursement[4]

1.3.2 Sponsor Must Keep Acceptable Acquisition and Relocation Records.

The airport sponsor must maintain adequate records, including real estate appraisals, acquisition, relocation, and property management records, and other documentation necessary to show compliance to 49 CFR Part 24. Documentation must be in an easily retrievable format, available during regular business hours for inspection by representatives of the FAA, Department of Transportation (DOT) Office of the Inspector General, and the Government Accountability Office (GAO). The airport sponsor must keep records for at least three years after FAA grant closeout. Chapter 8 provides guidance on required documentation to support the sponsor's grant assurance and certifications to FAA. Refer to Figure 8-2 a documentation checklist for sponsor parcel or project files.

1.3.3 Required Appeal Procedure to Address Grievances under 49 CFR 24.

1.3.3.1 **Appealable actions.**

Any aggrieved person may file a written appeal with the sponsor for any case in which the person believes that the sponsor has failed to consider the person's application or claim for payments or assistance properly under the Uniform Act. This assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment of closing costs and incidental expenses as provided in Section 3.2.2, certain litigation

[3] Sponsor project schedule must be realistic and correspond to the availability of qualified resources.
[4] Appendix C of this AC describes minimum quality control criteria and sample documentation formats. Quality control may be separately contracted or provided by qualified sponsor staff.

expenses described at Section 3.2.7, or relocation payments described in Chapters 5 and 6. The sponsor must consider a written appeal regardless of form and must promptly review appeals. The appeal process is intended for determinations of disputed eligibility or payment that may not be resolved by the sponsor's staff or agent. However, where a request for relief is reasonable and has merit for resolution at the agent level, it is not necessary to pursue the formal appeal process in order to resolve the problem or dispute. Sufficient discretion within program guidelines is available at the agent level to respond to special and individual circumstances and needs.

1.3.3.2 **Time limit for initiating an appeal.**

The sponsor may set a reasonable time limit for a person to file an appeal. The time limit must not be less than 60 days after the person receives written notification of the sponsor's determination on the person's claim or application for a payment.

1.3.3.3 **Right to representation.**

A person has the right to legal counsel or representation in connection with an appeal, but solely at his/her own expense.

1.3.3.4 **Review of files by appellant.**

The sponsor must permit a person to inspect and copy all materials pertinent to the appeal, except materials that are classified as confidential by the sponsor. The sponsor may impose reasonable conditions on a person's right to inspect records, consistent with applicable laws.

1.3.3.5 **Scope of appeal review.**

In deciding an appeal, the sponsor must consider all pertinent justification and other material submitted by the person, and all other information needed to ensure a fair and full review of the appeal.

1.3.3.6 **Determination and notification after appeal.**

Promptly after receipt of all information submitted by a person in support of an appeal, the sponsor must make a written determination about the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the sponsor must advise the person of their right to seek judicial review of the sponsor's decision. Normally, the person would be advised to consult their legal counsel to pursue judicial review.

1.3.3.7 **Sponsor official for conduct of appeal review.**

The official conducting the review of an appeal must be the sponsor's chief executive officer (CEO) or his/her authorized designee. The reviewing official must not have been directly involved in the action appealed.

1.3.4 No Duplication of Payments

No person will receive any payment required under the Uniform Act, as described in this AC, if that person receives a payment under federal, state, or local law that is determined by the sponsor to have the same purpose and effect as the payment provided under the Uniform Act. Persons eligible for and opting for publicly assisted housing as their replacement dwelling may only claim replacement housing payments to the monetary extent necessary, if any, to occupy the assisted housing (see Chapter 6). The FAA is available to clarify applicability of this provision should there be apparent conflict between the Uniform Act and another federal program or mandate.

CHAPTER 2. REAL PROPERTY APPRAISAL

2.1 Requirements.

2.1.1 Required Sponsor Appraisal Process (49 CFR 24.103-104).

On AIP projects, the Uniform Act obligates the sponsor to provide an appraisal process that, at a minimum provides for the following:

2.1.1.1 The sponsor must appraise fair market value of the real property to be acquired before initiation of negotiations with an owner. The sponsor may waive this requirement for an appraisal where the sponsor determines that an appraisal is unnecessary on a particular parcel because the appraisal is non-complex and the estimated fair market value is $10,000 or less, based on a review of available market data (see Section 2.2).

2.1.1.2 The sponsor's appraiser must afford the owner or designated representative an opportunity to accompany the appraiser during inspection of the property. The sponsor should send the property owners letters via certified mail offering them an opportunity to accompany the appraiser during inspection.

2.1.1.3 As stated in Chapter 3, the sponsor must maintain an adequate appraisal review process to establish just compensation prior to the initiation of negotiations. The amount of just compensation established must not be less than the sponsor's approved appraisal of the fair market value of the property to be acquired.

2.1.1.4 The appraisal of the property to be acquired must disregard any change in fair market value of the real property caused by the project for which the property is to be acquired or by the likelihood that the property would be acquired for the project, other than changes due to physical deterioration within the reasonable control of the owner. In the case of partial acquisitions, project influence is disregarded in the appraisal of conditions before the project (e.g., "before condition") but the effects of the project must be considered in the appraisal of conditions after the project (e.g., "after condition") [see Section 2.13].

2.1.1.5 Appraisers must not consider, or include in the appraisals, any allowance for relocation assistance benefits.

2.1.2 Appraisal Waiver.

An appraisal is not required under the following situations:

2.1.2.1 The owner is donating the property and releasing the sponsor from its obligation to appraise the property.

2.1.2.2 The sponsor determines that an appraisal is unnecessary because a review of available data estimates the market value at $10,000 or less and the valuation is non-complex. When an appraisal is determined to be unnecessary, the sponsor must prepare a waiver valuation of the proposed acquisition to document the determination.

2.1.3 Appraiser and Review Appraiser Qualifications.

The sponsor must establish qualification criteria that, at a minimum, assure the competency of its appraiser is consistent with the level of difficulty for the appraisal assignment. The sponsor must review the experience, education, training, and other qualifications of appraisers and review appraisers, and must use only those determined to be qualified. Figure 2-1 presents generalized criteria for evaluating appraisers and reviewing appraiser qualifications for a particular assignment or AIP-assisted project. The sponsor may obtain referrals for qualified appraisers and reviewers from other airport sponsors, the local offices of the state highway department, or local housing agencies.

2.1.3.1 **Certification.**

All states now license or certify private appraisers in accordance with Title XI of the *Financial Institutions Reform, Recovery, and Enforcement Act of 1989* (FIRREA), providing minimum education and experience requirements for real estate appraisers. Private fee appraisers hired to prepare complex appraisals must be certified under applicable state law in conformance with FIRREA requirements. Generally, an active state licensed or certified appraiser will have adequate qualifications and is bound by ethics and state law to only accept work for which they are competent. However, a sponsor should actively solicit the most qualified appraisers available and not simply rely on the license or certification. Government agency appraisers may be acceptable for AIP work if adequately qualified regardless of state licensing and state certification requirements.

2.1.3.2 **Soliciting Professional Appraisal and Review Appraisal Services.**

On AIP-funded projects, the hiring of appraisers must conform to requirements of AC 150/5100-14 "Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects." Optimally, the appraiser and review appraiser should be from different appraisal organizations. The sponsor should also contract with the review appraiser before hiring appraisers, since the review appraiser may assist in defining the appraiser's scope of work (see Section 2.8) for subsequent parcel assignment to appraisers. The review appraiser may also assist in many administrative aspects, such as application of legal opinions, accurate property descriptions, and guidance on needed appraiser qualifications. FAA Forms 5100-116 "Appraisal Contract" and 5100-121, "Appraisal Review Contract" provide acceptable contract documents (see Appendix A).

Figure 2-1. Appraiser and Review Appraiser Qualifications

The qualifications of an appraiser and review appraiser must be adequate for the proposed appraisal assignment. The sponsor should seek to hire the best-qualified appraiser for the type of property, the complexity of the acquisition (i.e. whole or partial taking), familiarity and expertise in the local real estate market, and as applicable experience with acquisitions subject to eminent domain. Also, the appraiser must not have any apparent conflict of interest in the property to be acquired, or potentially with a current or prior client relationship with property owners. An appraiser under consideration for an assignment should be able to submit a resume' of qualifications citing some or all of the following qualification criteria.

Professional Designations:

- *American Institute of Real Estate Appraisers: Member Appraisal Institute (MAI) and Residential Member (RM)*
- *National Association of Independent Fee Appraisers: (IFA)*
- *American Society of Appraisers: (ASA)*
- *International Right-of-Way Association: (SR/WA)*
- *American Society of Farm Managers and Rural Appraisers: (ASFRM)*
- *National Association of Master Appraisers*
- *Other National and local appraisal organization which grant designations upon completion of educational and experience requirements.*

Licensing and Certification under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA): State laws implementing FIRREA will require appraisers to meet the mandated educational and experience requirements to secure either a license or certification. State law may only require the license or certification for FIRREA mandated transactions (i.e. typically federally insured real estate loans), or may be required for all appraisal activity within the state. The Appraisal Qualification Board of the Appraisal Foundation established by FIRREA, instituted appraiser qualifications for a state license or certification. A licensed or certified appraiser may only perform appraisals consistent with the Uniform Standards of Professional Appraisal Practice (USPAP) as required under FIRREA. Adherence to USPAP requires appraisers to meet specific appraisal standards and a code of ethics in accepting and performing appraisals. The appraisal requirements contained in 49 CFR 24.103 have been determined to meet the requirements of USPAP, (Appraisal Foundation Determination, September 1990).

Educational Background: Completion of recognized course work in professional real estate appraisal principles, processes, and practices. Course providers may be colleges and universities, professional appraisal organizations, and accredited business and professional schools.

Experience: Verifiable experience in the types of property to be appraised. Experience and acceptance as an expert appraisal witness in eminent domain and other court proceedings. Experience with the before and after appraisal process for determining just compensation.

Client References: Verifiable listing of appraisal clients.

Geographic Area of Expertise: Area where the appraiser has an established practice. Some appraisers and appraisal firms may have a national scope, while often appraisers limit their work to specific local areas where they have developed adequate market databases and are fully familiar with the local markets and real estate trends.

Confidentiality and Certification: The appraiser must be able to execute the certification form.

2.1.4 Appraisal Management.

2.1.4.1 On larger projects or programs, the sponsor should solicit a sufficient number of qualified appraisers to ensure: (1) contracted fee appraisers are independent and (2) a single appraiser does not become dependent upon airport work, whether real or perceived. For the case when the sponsor uses internal appraisal staff or a consultant for appraisal functions, reliance on the professional qualifications and adequate organizational separation of the appraisal function from conflicting activities will assure independence of the appraisal process.

2.1.4.2 The selection and assignment of multiple appraisers to a project must also consider project efficiencies and recognize that individual appraisers will normally provide slightly different valuations. Therefore, individual appraiser assignments should allow multiple appraisers to operate efficiently while minimizing valuation inconsistencies on a particular project. To this end, it is recommended that individual appraisers be assigned logical groupings of similar and proximate properties.

2.1.5 Conflict Of Interest.

2.1.5.1 No appraiser, review appraiser, or other person making an appraisal or a waiver valuation for the sponsor should have any interest, direct or indirect, in the real property being appraised that would in any way conflict with the preparation of the appraisal, waiver valuation or appraisal review. Compensation for preparing an appraisal or a waiver valuation must not be based on the amount of the valuation estimate.

2.1.5.2 The sponsor must ensure an adequate separation of functions in its project organization to preclude any conflict of interest in the performance of professional and independent real property appraisal. On complex and high-value acquisitions, and on large or long-term projects, persons functioning as the property negotiator may not supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work for the project. On any real property acquisition for a FAA-assisted project, no person should attempt to unduly influence or coerce an appraiser, review appraiser, or waiver valuation preparer regarding any valuation or other aspect of an appraisal, review, or waiver valuation.[5]

2.1.5.3 No appraiser or other person making an appraisal or a waiver valuation should act as a negotiator for real property for which that person has made

[5] 49 CFR 24.102(n)(2)

an appraisal or a waiver valuation, except when permitted by the sponsor for acquisitions of property valued at $10,000 or less.

2.1.6 Non-Allowable Land Cost.

State law may require a sponsor to include additional compensation with its market value appraisal for items required under state law. These costs may exceed compensable payments as prescribed in Title 49 CFR, Part 24. Items generally held to be non-compensable in eminent domain include loss of business, payment for goodwill, frustration of development plans, and other limitations described in the Uniform Appraisal Standards for Federal Land Acquisitions as ineligible for federal reimbursement. The sponsor's review appraisal report must identify such items separate from the appraised market value for the real property to be acquired.

2.2 **Appraisal Procedures.**

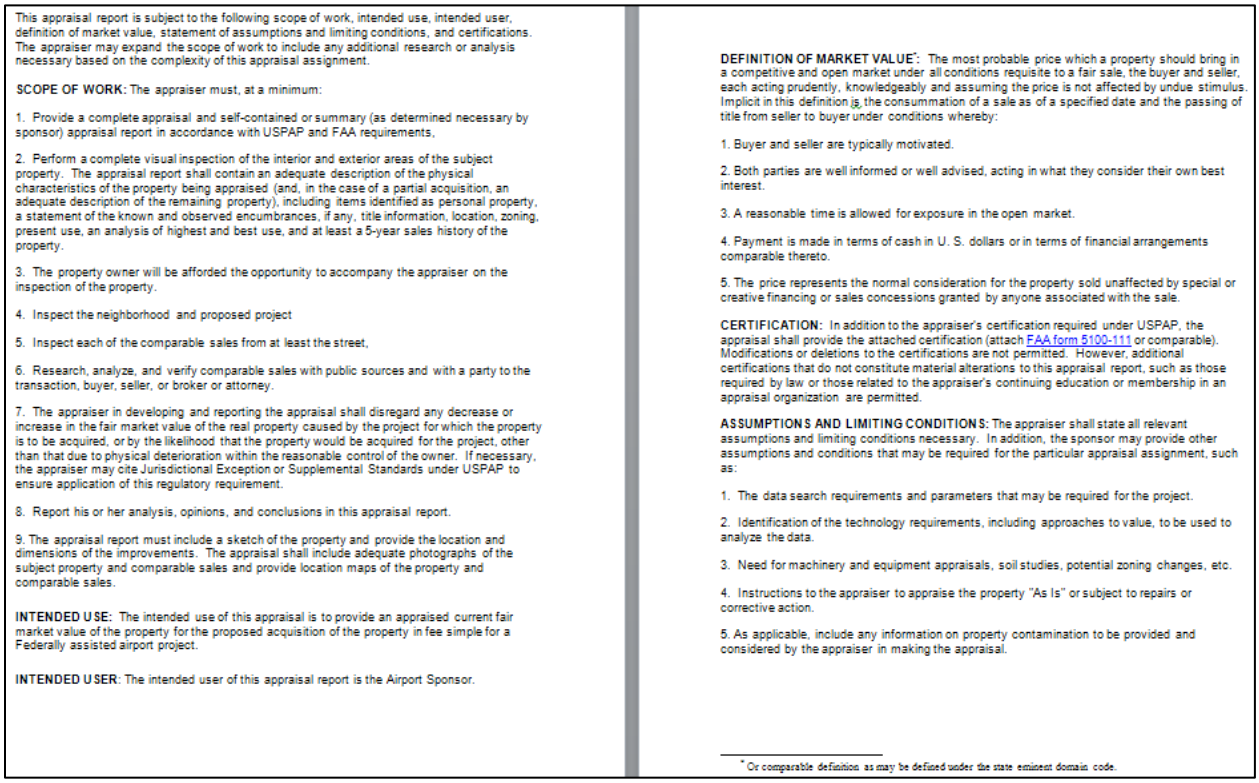
2.2.1 Appraisal Assignment Scope of Work.

Appraisals are to be prepared according to the requirements described in this chapter and consistent with the Uniform Standards of Professional Appraisal Practice (USPAP). The sponsor's appraisal assignment (e.g., solicitation) must contain a scope of work statement to ensure that an acceptable appraisal is secured for the FAA-assisted project. Figure 2-2 provides a sample scope of work statement. The scope of work should be commensurate with the complexity of the appraisal problem and, at a minimum, include the following:

1. The purpose and/or function of the appraisal (e.g. appraise fair market value)
2. A "Self-Contained" or "Summary" appraisal report as determined necessary by the sponsor for the assignment (see Chapter 3 and note that "Restricted Appraisal Reports" allowable under USPAP are not acceptable for FAA-assisted airport projects)
3. The definition of the estate being appraised (e.g. fee simple, easement, leased fee)
4. In developing and reporting the appraisal, the appraiser must disregard any change in fair market value of the real property caused by the project for which the property is to be acquired, or the likelihood that the property would be acquired for the project, other than changes due to physical deterioration within the reasonable control of the property owner (note that, if necessary, the appraiser may cite "Jurisdictional Exception" or "Supplemental Standards" under USPAP to ensure application of this regulatory requirement)
5. The appraiser must provide an opportunity for the property owner to accompany the inspection of the property
6. Assumptions and limiting conditions affecting the appraisal
7. The data search requirements and parameters
8. Identification of the technology requirements including approaches to value that will be used to analyze the data

9. Other specifications required to adequately appraise the property and meet FAA and regulatory requirements

Figure 2-2. Sample Scope of Work Statement



This appraisal report is subject to the following scope of work, intended use, intended user, definition of market value, statement of assumptions and limiting conditions, and certifications. The appraiser may expand the scope of work to include any additional research or analysis necessary based on the complexity of this appraisal assignment.

SCOPE OF WORK: The appraiser must, at a minimum:

1. Provide a complete appraisal and self-contained or summary (as determined necessary by sponsor) appraisal report in accordance with USPAP and FAA requirements,

2. Perform a complete visual inspection of the interior and exterior areas of the subject property. The appraisal report shall contain an adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property.

3. The property owner will be afforded the opportunity to accompany the appraiser on the inspection of the property.

4. Inspect the neighborhood and proposed project

5. Inspect each of the comparable sales from at least the street,

6. Research, analyze, and verify comparable sales with public sources and with a party to the transaction, buyer, seller, or broker or attorney.

7. The appraiser in developing and reporting the appraisal shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner. If necessary, the appraiser may cite Jurisdictional Exception or Supplemental Standards under USPAP to ensure application of this regulatory requirement.

8. Report his or her analysis, opinions, and conclusions in this appraisal report.

9. The appraisal report must include a sketch of the property and provide the location and dimensions of the improvements. The appraisal shall include adequate photographs of the subject property and comparable sales and provide location maps of the property and comparable sales.

INTENDED USE: The intended use of this appraisal is to provide an appraised current fair market value of the property for the proposed acquisition of the property in fee simple for a Federally assisted airport project.

INTENDED USER: The intended user of this appraisal report is the Airport Sponsor.

DEFINITION OF MARKET VALUE*: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated.

2. Both parties are well informed or well advised, acting in what they consider their own best interest.

3. A reasonable time is allowed for exposure in the open market.

4. Payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto.

5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

CERTIFICATION: In addition to the appraiser's certification required under USPAP, the appraisal shall provide the attached certification (attach FAA form 5100-111 or comparable). Modifications or deletions to the certifications are not permitted. However, additional certifications that do not constitute material alterations to this appraisal report, such as those required by law or those related to the appraiser's continuing education or membership in an appraisal organization are permitted.

ASSUMPTIONS AND LIMITING CONDITIONS: The appraiser shall state all relevant assumptions and limiting conditions necessary. In addition, the sponsor may provide other assumptions and conditions that may be required for the particular appraisal assignment, such as:

1. The data search requirements and parameters that may be required for the project.

2. Identification of the technology requirements, including approaches to value, to be used to analyze the data.

3. Need for machinery and equipment appraisals, soil studies, potential zoning changes, etc.

4. Instructions to the appraiser to appraise the property "As Is" or subject to repairs or corrective action.

5. As applicable, include any information on property contamination to be provided and considered by the appraiser in making the appraisal.

* Or comparable definition as may be defined under the state eminent domain code.

2.2.2 Appraisal Report Requirements.

The sponsor must assure that the appraisal report reflects established and commonly accepted federal and federally-assisted program appraisal requirements, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA). The appraisal report must also conform to applicable state eminent domain laws and requirements. Figure 2-3 generally describes acceptable report content and related regulatory requirements. Details of the appraisal report must reflect the value and complexity of the appraisal assignment. For low-value and non-complex appraisals, a summary appraisal report form may suffice (see Section 2.10). At a minimum, among other professional appraisal requirements (e.g. USPAP report standards, UASFLA), the appraisal report must include the following:

1. An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, (if any), title information, location, zoning, present use, an analysis of highest and best use, and at least a five-year sales history of the property

2. All relevant and reliable approaches to value consistent with established federal and federally-assisted program appraisal practices(note that if the appraiser uses more than one approach, there must be an analysis and reconciliation of approaches to value use that is sufficient to support the appraiser's opinion of value)
3. A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction
4. A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits (if any) to the remaining real property, where appropriate
5. The effective date of valuation, date of appraisal, signature, and certification of the appraiser

Figure 2-3. Appraisal Report Requirements

APPRAISAL PROCESS	*DETAILED REPORT CONTENT*	***49 CFR 24***
DEFINE THE APPRAISAL PROBLEM Identify and Locate the Real Estate Identify the Property Rights to be Valued Establish Date(s) of Value Estimate Identify the Use of the Appraisal Define Value to be Estimated Identify Limiting Conditions and Limitations	Parcel Number as shown on Exhibit "A" Project Influences Disregarded Existing Ownership: fee, easement, tenant Options/contracts Date of Value, Date of Inspection Statement of Owner Accompaniment Statement of Limiting Conditions	49 CFR 24.103(a) 49 CFR 24.103(a)(1)
PRELIMINARY ANALYSIS & DATA COLLECTION **General: Specific: Market (Supply&Demand):** Geographic Subject Applicable Sub-market Social Site & Imps. Competing Supply Economic Costs/Income Sales/Listings Govt. Interest Rates Vacancies/Absorption Environ. Use/Ownership Demand Studies	Area, Zoning, Utilities, Improvements Identification of Special Features Identification of Adverse Influences Market Analysis Neighborhood Analysis 5 Year Sales History of Property Encumbrances	49 CFR 24.103(a)(2), (4)
HIGHEST AND BEST USE ANALYSIS As Vacant & Available As Improved	Support and Analysis Presented	49 CFR 24.103(a)(2)
LAND/SITE VALUE ESTIMATE	Sales Comparison, Subdivision Approach, Income Capitalization (Land Residual)	49 CFR 24.103(a)(3)
APPLICATION OF THE THREE APPROACHES TO VALUE Sales Comparison, Income, Cost Approaches (As Applicable)	Comparable Sales Verified Adjustments Explained Data and Analysis Presented for Each Sale Income & Expense Data Verified Capitalization Rate Support Provided Cost Source, Depreciation Supported	49 CFR 24.103(a)(3)
RECONCILIATION	Reasoning presented, relative strengths and weaknesses of the approaches discussed	49 CFR 24.103(a)(5), (6)
REPORT OF DEFINED VALUE	Self-Contained Appraisal Report Appraisers Certification Before & After Analysis (Partial Acquisitions)	49 CFR 24.103(a)(5)(6)

2.2.3 Short Form Appraisal Report for Low Value and Simple Acquisitions.

A short-form appraisal report is acceptable for low-value and non-complex acquisitions. Examples of non-complex acquisitions include single-family residences, unimproved

residential or small commercial lots, and strips taken from a large parcel not involving significant benefits or damages to the remaining property. Acceptable summary report forms include common use appraisal forms, which include Federal National Mortgage Association (FannieMae), Federal National Home Loan Bank (FreddieMac) or comparable appraisal report forms. FAA Form 5100-112 URAR provides a cover sheet for summary appraisal reports citing the applicable FAA requirements to include with the form report.

2.2.4 Appraiser and Review Appraiser Certification.

Each appraisal and review appraisal report must contain the appraiser's certification, which states that, to the best of his or her knowledge and belief, the appraisal was conducted in an objective manner and that the conclusions are correct. A new certificate will be prepared when there is a change in the appraisal report that affects the estimate of just compensation or changes the date of valuation. FAA Form 5100-111, "Certificate of Appraiser," provides an example of a certificate in an acceptable format. Note that this certificate is required in addition to the certification that may be required of the appraiser in accordance with the USPAP.[6]

2.2.5 Number of Appraisals Needed.

Unless waived at least one appraisal is necessary for each parcel to be acquired. Generally, a property with potential fair market value over $500,000 may require a second appraisal. Complex appraisal assignments may also require two appraisals to ensure adequate market research and analysis is secured to support appraised values.

2.2.6 Partial Acquisitions – "Before and After" Valuation.

A partial acquisition is a situation in which only part of a property parcel is acquired or only some property rights are to be conveyed, leaving the property owner with the fee simple interest. Examples of typical partial acquisitions include the taking of a portion of a residential property's front yard for a road widening or the acquisition of an avigation easement over an owner's property to protect approach slopes. The sponsor must use the "before and after" method to appraise partial acquisitions, except where there is clearly no damage to the remaining land or improvements due to a relative minor acquisition of real property. Generally, the value of a partial acquisition (i.e., the part taken) is appraised as the difference in the "before and after" value of the property. The "before" value is the pre-project value of the real property disregarding any project influence. The "after" value is the appraised value of the remaining real property without the acquired part or rights and subject to project impacts.

2.2.7 Realty / Personalty Determination.

2.2.7.1 On complex acquisitions of improved commercial or industrial property where a business (e.g., farm or non-profit organization) is displaced for the

[6] This certification is required in addition to the certification that may be required of the appraiser in accordance with USPAP.

project, a realty/personalty determination must be made and provided to the appraiser. Items of personalty are not appraised, and real estate items must not be excluded from the valuation. A formal realty/personalty determination is necessary for complex appraisals and should be developed in consultation with the property owner and any affected displaced tenants. Some items may require advice of legal counsel to determine whether the item is real estate or personalty. Generally, an item is considered a fixture and real estate if removal of the item would destroy the item or would substantially damage the real estate.

2.2.7.2 Where tenant ownership of real estate items is established, the inventory of tenant-owned improvements is provided to the appraiser for a valuation of the contributory value of this property to the real estate to be acquired. Specific regulatory and procedural requirements apply to the acquisition of tenant owned improvements (see Section 3.13).

2.2.8 Appraisal of Avigation Easements Acquired for Airport Operations and Standards.

2.2.8.1 **Appraisal requirement.**

2.2.8.1.1 An appraisal is usually required for the purchase of avigation easements necessary for airport approaches. If the underlying land is improved or if the easement restrictions may significantly affect the highest and best use of the property, then typically the easement acquisition is considered complex and an appraisal is required. Even though the value appraised may often be nominal (i.e., under $10,000) an appraisal is required to evaluate the property and the effect of the proposed easement on its market value. Where the easement acquisition will not affect the remainder land or improvements (e.g., approach easement over agricultural land), the appraiser may apply a "part taken" approach, citing their supported finding that the easement conveyance and use has no effect on remainder property.

2.2.8.1.2 Note that the appraisal waiver may be applied for an uncomplicated easement acquisition (i.e., no impact on land use and reasonable value is apparent and the market value is estimated at $10,000 or less). However, when the appraisal waiver is applied, the compensation value must not be set arbitrarily at the $10,000 maximum value. The easement compensation must be reasonable and relate to the actual value range for the non-complex easement acquisition.

2.2.8.2 **Description of easement.**

2.2.8.2.1 When a fee title is deemed unnecessary, an avigation easement may be used to secure airspace for airport and runway approach protection, and for noise compatibility programs (NCPs). An avigation easement is a conveyance of airspace over another property for use by the airport. The

owner of an easement-encumbered property (i.e., servient property) has restricted use of their property subject to the airport sponsor's easement (i.e., dominant property) for overflight and other applicable restrictions on the use and development of the servient parcel. Easement rights acquired typically include the following: the "right-of-flight" of aircraft; the right to cause noise, dust, etc.; the right to remove all objects protruding into the airspace together with the right to prohibit future obstructions or interference in the airspace; and the right of ingress/egress on the land to exercise the rights acquired. The avigation easement on the property must "run with the land" and any future owner's use of the servient parcel is restricted as described in the avigation easement.

2.2.8.2.2 Figure 2-4 generally identifies the property rights that may be acquired by easement from a property. It is imperative that the easement and the appraisal reflect the specific easement estate proposed for acquisition. Where right of flight is required, lesser rights, such as clearance easements, are insufficient to protect an airport owner from future claims of property owners due to over flights. In developing easement language, a sponsor should secure legal advice and confirmation that the easement is sufficient to provide the property rights needed.

2.2.8.3 **Airspace.**

Avigation easements are typically acquired for airspace requirements as indicated on the airport layout plan, including the approach area and approach protection zone (APZ) layout. The airport layout plan depicts, among other things, the imaginary surfaces for the airport based on FAR Part 77 criteria, the existing and ultimate approaches, height and slope protection, a plan and profile for approach protection zones and approach areas, and location and elevation of obstructions to air navigation as identified by the imaginary surfaces. Airport imaginary surfaces are established in relation to the airport and each runway. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that particular runway.

2.2.8.4 **Runway Protection Zone (RPZ).**

The RPZ is trapezoidal in shape and centered along the extended runway centerline, beginning 200 ft. beyond the end of the area usable for takeoff and landing. FAA AC 150/5300-13, "*Airport Design,"* provides details regarding the dimensions, configuration, and location of an RPZ to the associated airport runway. It is recommended that the RPZ be acquired in fee; however, if this is impractical, an easement must be acquired that adequately restricts land use. The easement acquired must account for the height restrictions required to protect FAR Part 77 surfaces and restrict current and future use of the land surface to preclude incompatible uses. Incompatible uses within the RPZ include land use for residences and places of public assembly (e.g., churches, schools, hospitals, office

buildings, shopping centers, and other uses with similar concentrations of persons) and other uses inconsistent with airport operations. An effective easement prevents introduction of new or expansions of incompatible land use or development into the RPZ.

2.2.8.5 **Airport compatible land use restrictions**.

Easements may be acquired to prevent incompatible land use or development that may conflict with airport development or operations. To prevent future incompatible land use or development, the sponsor should also retain an easement on any sale of noise land or released airport land. See FAA AC 150/5190-4A, "Airport Compatible Land Use," for additional guidance on compatible and incompatible land use types, as well as needed easement and deed restrictions to protect against incompatible use and development.

Figure 2-4. Avigation Easements

Easement Scope	Property Rights Acquired	Duration
Model Aviation and Hazard Easement	1. Right of flight at any altitude above acquired surfaces. 2. Right to cause noise, vibrations, fumes, dust, fuel particles. 3. Prevent erection or growth of all objects above acquired surfaces. 4. Right of entry to remove, mark, or light any structures or growth above acquired surfaces. 5. Prohibit creation of electrical interference or directed lighting or glare from the property. 6. Others as necessary.	Until Airport is Abandoned
Limited Avigation Easement	1. Right of flight at any altitude above acquired surfaces. 2. Prevent erection or growth of all objects above acquired surfaces 3. Right of entry to remove, mark, or light any structures or growth above acquired surfaces	Until Airport is Abandoned
Clearance Easement	1. Prevent erection or growth of all objects above acquired surfaces 2. Right of entry to remove, mark, or light any structures or growth above acquired surfaces.	Until Airport is Abandoned

2.2.9 Appraisal of Noise Avigation Easements.

Outright purchase of an avigation easement for an airport's NCP, or as mitigation for an expansion project, may require an appraisal. An appraisal is not required for easements conveyed in exchange for other noise mitigation measures provided under an airport's

NCP, such as soundproofing, purchase/sales assurance, or transaction assistance. The general considerations that the sponsor and their appraiser should make when appraising the market value of a proposed easement acquisition for noise compatibility are as follows:

2.2.9.1 **Before value appraisal.**

The appraisal of avigation easements to be acquired for a NCP must consider the existing noise impact, as indicated by the noise contour for the location of the participating property. The existing noise impact is not an influence of the NCP and must be properly considered in the "before condition" appraisal. Therefore, comparable sales to value the "before condition" would be selected from the same noise contour as the property appraised. In contrast, for an airport expansion project that proposes or requires acquisition of noise easements, the resulting new or increased noise impacts would be disregarded in the appraisal of the "before condition." Therefore, sales selection for expansion projects may be properly made from areas that represent the pre-project noise condition (i.e., "before condition) not affected by project development.

2.2.9.2 **After value appraisal.**

Where there is not a significant physical effect or a proposed change in proximity of airport operations from the before condition, the task of the appraiser is to measure and report the effect of the easement conveyance on a subsequent market sale. Typically, this will be the measure of market value of an easement acquired as a mitigation measure of an airport's NCP. Specific market data corresponding to and indicating this value may be difficult to find. Market data sources and techniques that should be investigated by the appraiser include the following:

1. Sales of similar property encumbered with avigation easements when compared directly with the subject property will yield the after value. Recent resale of properties that had formerly conveyed easements for noise compatibility purposes will provide the best indication of the after value.
2. Airport NCPs may jointly offer sales assurance or easement acquisition as an approved mitigation measure. The sales assurance option involves the sponsor assisting homeowners to move from noise-impacted areas by ensuring the owner the appraised fair market value of their property on a timely sale. In exchange for this assistance, the property is listed on the open market as being subject to the airport's avigation easement and is purchased by a buyer with full knowledge of the easement restrictions on the property. The actual experience of properties sold subject to easements under a sponsor's sales assurance option will provide a good indication of avigation easement value. For NCPs, the property is appraised "as is" subject to the existing noise impact and any loss in value from the appraised value may then be

attributed directly to the imposition of the avigation easement on the property.

3. Sales of easement encumbered properties adjacent to a comparison airport to analyze the influence of those easements on affected properties at that site. This analysis can then be related to the properties currently being encumbered with easements at the subject airport. Although sales near different airports may involve variations in airport type, size, and use, all available sales data should be investigated, included in the appraisal, evaluated by the appraiser, and either assigned appropriate consideration or disregarded.

4. Given the lack of specific market experience with avigation easements, statistical analysis of relevant market activity for appraisal techniques may provide insight to the purchase of avigation easements. For Part 150 noise projects, the appropriate factor to be isolated for analysis is the effect on property value due to the imposition of an easement on a property owner's title, and not the pre-existing effects of airport proximity and noise exposure. Sales of properties that are subject to other type of confiscatory easements (e.g., high-voltage power transmission lines, high-pressure gas lines, highway slope, and public open space) should also be considered and analyzed as a source of appropriate market information.

5. Lacking sufficient specific data to draw reliable conclusions from the above analysis, general market-wide analysis of the typical marketing time of comparable properties – both unencumbered and encumbered title (e.g., easements, deed restrictions, encroachments, liens, or other title imperfections) may provide useful information to conclude a reasonable market discount, which may be necessary to attract a buyer for timely sale of a property subject to the proposed easement. Local assessor files and title companies in an area may be able to provide comparable information on property encumbrances.

2.2.10 Appraisal of Properties Containing Hazardous Materials.

Cleanup or waste disposal costs are normally reflected in a property's salability, thereby generally affecting the market value. In appraising such property for airport project purposes, the impact of any hazardous materials affecting the property and the level of treatment needed to control or cleanup the property needs to be considered and reflected in the appraised market value.

2.2.10.1 **Identification of hazardous materials sites.**

Prior to commencing work for preparation of the appraisal, the real estate appraiser must be given specific instructions to consider the impacts on value of the parcel to be appraised. The appraiser is not a specialist or expert on handling hazardous materials or in the costs of control, cleanup, or removal, and should not be expected to make these determinations. Therefore, these matters and related costs should have already been

determined by adequate environmental audit (see Section 1.13) during earlier project development, and the findings given to the appraiser for consideration in valuing the affected property. The degree to which the hazardous materials affect the value of the property is a matter that the appraiser must determine.

2.2.10.2 **Commercial and industrial properties.**

In appraising commercial and industrial properties impacted with hazardous materials, the following situations may be encountered:

1. The property contains hazardous materials that must be cleared before any further use or activity, existing or otherwise, can be carried out on the property. In these instances, where the airport acquires the property prior to hazardous materials clearance, the appraised value must be made on the potential highest and best use, less the cost of clearing the materials in compliance with existing regulatory criteria.
2. The property contains hazardous materials, but clearing or disposal may be delayed until a future date. In such instances, the property should be valued as unimpaired, less the present worth of the estimated cost to clean up at a future date. Full consideration must be given to any existing hazardous material that may influence the value of the property.
3. The property has building components and/or site improvements that contain hazardous materials, which will require removal and disposal upon demolition or refurbishing to meet environmental pollution and health regulations, (e.g. non-friable asbestos containing materials, polychlorinated biphenyls [PCBs], lead paint, acid sludge, or other regulated toxic and hazardous materials). The appraiser's estimate of accrued depreciation must consider the removal and disposal costs for these items and cost to cure or replace worn components.
4. The property contained hazardous materials that the property owner has cleared or disposed of prior to acquisition by the sponsor. If the cleanup is in accordance with applicable government requirements, the property may be appraised and valued for sale on the open market. However, recognize the extent of site remediation completed and any future risk of additional cleanup liability. Comparable sales of remediated property would be the best indicator of value, if available.

2.2.10.3 **Residential property.**

Residential properties that may contain hazardous materials in building components should be appraised "as is," subject to the following conditions:

1. If the real estate market indicates a value adjustment for the presence of the hazardous materials on the property, the appraiser should incorporate this market factor in the appraisal.

2. Exposure to existing hazardous conditions that require correction or remediation prior to property sale must be considered (e.g., friable asbestos or chipping lead paint) and the cost to cure these conditions must be properly accounted for in the appraised fair market value. This situation is analogous to normal property condition considerations in an appraisal (e.g., defective plumbing, depreciated roofing components, worn carpeting), for which the appraiser would properly adjust for and reflect in the appraised market value.
3. The expected demolition costs to remove the improvements and adequately dispose of the hazardous materials should be considered in the appraisal of interim use properties and properties with highly depreciated improvements with a relative short term remaining economic life (e.g., less than 5 years).

2.3 **Appraisal Review.**

2.3.1 Responsibility of Airport Sponsor.

For any acquisition of real property for an AIP project, the sponsor must have an appraisal review process and, at a minimum, satisfy the following criteria:

2.3.1.1 A qualified review appraiser must examine the presentation and analysis of market information in all appraisal reports to ensure they:

1. Conform to the following regulatory definition of appraisal [per 49 CFR 24.2(a)]: note that The term appraisal means a written statement, independently and impartially prepared by a qualified appraiser, setting forth an opinion of defined value of an adequately described property, as of a specific date, supported by the presentation and analysis of relevant market information.
2. Meet applicable FAA and 49 CFR 24 appraisal requirements (described in Chapter 2).
3. Provide adequate documentation and support of the appraiser's opinion of value.
4. Prior to acceptance, the review appraiser must seek necessary corrections or revisions.
5. The review appraiser must report the approved appraised value as the recommended amount of just compensation to be offered to the property owner.
6. The review appraiser must identify each appraisal report reviewed as one of the following classifications:
    a. *Recommended,* as the basis for the establishment of the amount is believed to be just compensation
    b. *Accepted* and meets all requirements, but not selected as approved

c. *Not Accepted,* as the appraisal failed to meet requirements for acceptance and the opinion of value is not considered correct or supported.

2.3.1.2 If the review appraiser is unable to approve an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined by the sponsor that it is not practical to obtain an additional appraisal, the review appraiser may develop appraisal documentation in accordance with FAA requirements to support an estimate of just compensation. The review appraiser report must include the additional analysis and documentation required to supplement the reviewed appraisals and support the approved appraised value. No further appraisal review is required.

2.3.2 Review Appraisal Report.

The review appraiser must prepare a written report that identifies the appraisal reports reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s). The appraisal review report must, at a minimum, include the following:

1. Identification of any damages or benefits to any remaining property
2. Identification of any damage items compensable under state law, but not generally held to be compensable under eminent domain, and not eligible for federal reimbursement (if applicable)
3. A statement that the approved appraised value is the basis for the sponsor's offer of just compensation

CHAPTER 3. REAL PROPERTY ACQUISITION

3.1 Requirements.

3.1.1 Sponsor Offer of Just Compensation.

The sponsor must meet certain minimum requirements to present an acceptable purchase offer to a property owner for their real property or an interest in their real property. To prepare its offer of just compensation to initiate the purchase negotiations with the property owner, the sponsor should plan and schedule the acquisition process in accordance with the following steps:

3.1.1.1 Expeditious acquisition.

The sponsor must make every reasonable effort to acquire the real property expeditiously by negotiation of an amicable purchase agreement. The sponsor will need to provide sufficient time prior to project need (i.e., lead-time) to allow for an adequate appraisal and appraisal review, and sufficient time for the property owner to consider the sponsor's just compensation offer.

3.1.1.2 Adequate property survey and description.

Whole property may be acquired by deed description, as supported by adequate title investigation. Partial acquisitions must be described by adequate survey of the part required and description of the remaining tract.

3.1.1.3 Property title search.

The sponsor must determine the legal property owner and the condition of marketable title for acquisition. Typically, a title insurance commitment is secured to evidence marketable title and any exceptions to be cleared.

3.1.1.4 Notice to owner.

As soon as feasible (i.e., no later than the appraisal assignment), the sponsor must notify the owner in writing of the sponsor's interest in acquiring the real property and the basic protections provided to the owner by law. The FAA brochure, "Land Acquisition for Public Airports," may be used as a resource to provide this general information notice.

3.1.1.5 Appraisal requirement.

Before the initiation of negotiations, the real property to be acquired must be appraised, unless the appraisal waiver is applicable (see Chapter 2) or the owner is donating the property and releases, in writing, the sponsor from its obligation to appraise the property.

3.1.1.6 Appraisal review and sponsor just compensation offer.

Before the initiation of negotiations, the sponsor must establish an amount that it believes is just compensation for the real property. The just

compensation offered at the initiation of negotiations must not be less than the amount of the appraised market value of the property approved by the review appraiser. In the case of a partial acquisition, the approved market value will take into account the value of allowable damages or benefits to any remaining property.

3.1.1.7 **Written offer.**

Promptly after the review appraiser approves the appraisal, the sponsor must make a timely written offer to the owner to acquire the property for the full amount of just compensation. A sample offer letter is shown in Figure 3-1. The written offer must present a summary statement of the basis for the just compensation offer, which must include the following:

1. A statement of the amount offered as just compensation
    a. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property must be stated separately.
2. A legal description or adequate location identification of the real property and the interest in the real property to be acquired
3. An inventory of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) to be acquired by the sponsor's offer of just compensation
    a. To comply with 49 CFR, Part 24, any building, structure, fixture, or other improvement that would be real property if owned by the owner of the land will be considered to be real property, notwithstanding the right or obligation of a tenant, such as against the owner of any other interest in the real property, to remove such improvement at the expiration of the lease term.
4. Where appropriate, identification of any other separately held ownership interest in the property (e.g., a tenant-owned improvement) and indication that this offer does not cover such interest

Figure 3-1. Example of an Offer Letter and Summary Statement

Dear Property Owner:

The Orville Airport Authority is undertaking a project for construction of improvements to the Orville Municipal Airport. The proposed project has been designed to minimize the disruption to the community and especially to minimize the need to acquire private property. However, sound design and cost efficiency require the acquisition of some private property to accomplish the project, including (a portion of) your property located at 123 Main Street, Orville and as further described below. The airport may only acquire your property upon payment of just compensation to you for the fair market value of the property required and any resulting damages to your remainder property due to the acquisition for the subject project. To this end we have had your property appraised by qualified real estate appraisers and have determined the amount of just compensation to be $87,500.

The airport authority is therefore offering you $87,500 for the purchase of the needed property and compensation for all resulting damages. Enclosed are a proposed purchase agreement contract, survey plat of the needed property, and exact legal description of the property to be acquired for your review. Also, enclosed is a brochure entitled "Land Acquisition for Public Airports" which explains your rights and benefits for the conveyance of your property and (as applicable) relocation to a replacement property.

The amount offered as just compensation is fair and full compensation for the proposed acquisition, and we sincerely wish to come to amicable agreement with you for the acquisition of your property. The airport representative presenting this offer to you will explain the offer and proposed acquisition to you, and is available to answer any questions and concerns you have now and throughout the negotiations process.

Thank you for your consideration.

Sincerely,

Airport Director

SUMMARY OF JUST COMPENSATION:

Dwelling, garage and 12000 sq.ft. of land -$87,500

3.1.2 Excess Land.

When the sponsor acquires a parcel of land (other than an uneconomic remnant) that is in excess of airport needs, or contains improvements not needed for aeronautical purposes, the grant reimbursement may be based on the full value of the parcel, including that part which is excess, provided that the land or improvements will be

immediately disposed. The net proceeds from the sale of the excess property will be deducted from the grant amount before project closeout. In cases where the sponsor does not intend to sell the excess property immediately after acquisition, the amount of the purchase price attributable to such excess property should not be included in the grant. The cost of acquiring uneconomic remnants, as required under Section 3.9.e, may be submitted for federal reimbursement. The remnant parcel may be incorporated into airport property or, upon disposal for non-airport purposes, sales proceeds will be credited to AIP grant funds.

3.1.3 Donations.

Property owners whose real property is to be acquired for an airport project may make a gift or donation of the property, or any part of it, or any of the just compensation amount, to the airport sponsor. A donation may be made at any time during the development of a project or during the acquisition phase of the project. At the time of the donation, the property owner must be informed of his or her right to receive just compensation. In addition, the sponsor has the obligation to perform an appraisal of just compensation and disclose the amount to the property owner, unless the owner releases the sponsor from this obligation. The sponsor must document in writing the owner's acknowledgment and waiver of the right to just compensation. The sponsor is cautioned that prior to accepting a donation, ownership of the property must be verified and adequate title assured, and assurance secured that the property is not subject to hazardous waste contamination and/or cleanup liability that may exceed the value of the property.

3.1.4 Purchase of Life Estates.

A life estate, in lieu of full fee title, may be considered an eligible project expense with concurrence of FAA. A life estate may be desirable for a property owner and an acceptable acquisition where possession of the property may be deferred indefinitely. Property owner requests to convey life estates have been found acceptable for 14 CFR Part 150 projects. Where life estates may be acceptable, the following terms and conditions should be included in life estate transactions:

1. The life use occupant must not add to or materially alter the character of existing improvements or structures, initiate any new construction, or change the topography of the land without first having obtained permission of the airport owner.
2. Any building or structure damaged or destroyed by fire or other casualty, deteriorated by the elements, or wear and tear may be maintained, repaired, renovated, remodeled, or reconstructed, as long as the basic character of the building or structure is not materially altered.
3. The life use occupant must keep the grounds of the property in a clean and neat condition and must maintain all structures and improvements in good repair. The occupant is responsible for all costs of maintenance, repair, and utility charges.
4. The life use occupant is responsible for the payment of any taxes or assessments that may be levied against the occupant's interest in the reserved property.

5. The life use occupant must hold the airport owner harmless for any liability arising out of the use of the reserved property. The occupant must carry such public liability insurance as is customary by homeowners in the vicinity, provided such insurance is available. The occupant is also responsible for insuring his or her interest in the reserved property.

3.1.5 Acquisition of Property Containing Hazardous Materials.

3.1.5.1 The sponsor must not acquire property contaminated with hazardous materials without adequate prior investigation and proper contractual and valuation safeguards. As feasible, the sponsor should not acquire the property in its contaminated state and cleanup should be completed prior to acquisition. It is necessary that hazardous material contamination problems be dealt with at the earliest stage of the project development (also see FAA Order 5050.4B, *National Environmental Policy Act (NEPA) Implementing Instructions for Airport Projects*).

3.1.5.2 If hazardous materials are discovered during the appraisal or negotiations process, at a minimum the sponsor should take the following measures to determine the extent of contamination and cleanup costs:

1. Determine legal responsibility for any identified problem and the required time for remediation under applicable federal, state, and local regulations. If not done previously, initiate consultation with the appropriate state environmental protection agency concerning action required on the contaminated property to be acquired.
2. Consult with and advise the property owner of the identified problem and request that the owner resolve any problems within a specified time.
3. As appropriate and in accordance with applicable law or regulation, alert the responsible enforcement agency of the contaminated property to secure site cleanup.
4. If the property owner agrees to a remediation plan, include in the purchase agreement contractual obligation for the control or cleanup to occur at the property owner's expense, compliant with applicable requirements, and subject to an agreed cleanup schedule. The sponsor should retain a portion of the acquisition price of the subject property to sufficiently cover the testing and control and/or cleanup costs of the contaminants. After the government agency with enforcement jurisdiction has certified property as adequately mitigated, the net amount of the acquisition price withheld may be paid to the property owner.
5. If any proposed acquisition requires a Phase II or Phase III environmental site assessment (ESA), coordinate with the FAA prior to initiating the next phase in the ESA process and, more importantly, prior to continuing the negotiation process.

3.1.6 Minimum Payment Negotiations.

3.1.6.1 The minimum payment procedure provides an equal monetary offer to all similarly affected property owners where the appraisal waiver provision is invoked (see Section 2.2). This procedure recognizes that, given the nominal value appraisal waiver, it is also unnecessary to establish an exact just compensation amount specific to each property. Therefore, a single amount may be established from the market or project analysis to be offered as just compensation for similar nominal acquisitions. This procedure is an expedited negotiations process to efficiently provide payment of the indicated nominal compensation. However, just compensation may only include fair market value considerations, and the project cost savings secured by this procedure may not be added to the just compensation amount offered to property owners.

3.1.6.2 To ensure that adequate compensation is provided under this procedure, the value range established for minimum payment negotiations should reflect a range of pessimistic to optimistic assumptions based on the value of a proposed nominal acquisition. For example, suppose adequate market and project analysis indicates that imposition of an avigation easement on a homogeneous group of properties participating in a sales assurance/easement acquisition project of an airport's approved NCP is determined to result in a 2-4% loss in market value of participating properties, with current fair market values ranging from $45,000 to $60,000. This analysis then yields a dollar value range for the easement to be conveyed from this group of property of $900 to $2400. With this information, the sponsor may determine that a minimum offer of up to $2400 is adequate to compensate all these property owners for the conveyance of the proposed avigation easement. As this amount is within the appraisal waiver requirement, no further appraisal documentation is necessary to establish the minimum amount of just compensation to be offered.

3.1.6.3 The minimum payment procedure, by its nature, is conducted strictly on a one price and single offer basis. Under these procedures protracted negotiations should not be conducted, nor administrative settlement criteria be applied to secure individual settlements. Successful sponsor use of this procedure relies on a concise negotiations effort involving well-developed written offers and presentation to property owners that assure and convince the property owner that the offer reflects sound valuation considerations and represents the airport's best offer for the acquisition of the avigation easement. In addition, these provisions would not be applicable to a project where there is a diverse mix of residential property types and values where a consistent market standard cannot be determined, or where value in excess of nominal value is indicated. The appraisal waiver and minimum payment negotiations procedure are

optional methods, and a sponsor, at its discretion, may opt for the traditional approach with full FAA participation.

3.1.7 Utility Relocation.

In the development of an airport project there are times when a utility (e.g., electric, gas, telephone, sewer, water) must be relocated to accommodate the proposed airport work and use of a property. If the utility company owns an interest (either fee or easement) in the utility right-of-way to be acquired, and the utility must be moved to another location as a result of the project, the relocation, adjustment, and resulting costs can be reimbursed to the utility company as an eligible project cost. The sponsor should enter into a reimbursable agreement with the utility company in order to establish the total costs involved in the relocation, including a new right-of-way, if necessary. The agreement requirements are fully described in Federal Highway Administration (FHWA) regulations[7], which the FAA project manager will provide upon request.

3.2 Purchase Negotiations.

3.2.1 Basic Negotiation Procedures.

The sponsor must make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses (see Section 3.10). The owner must be given reasonable opportunity to consider the offer and present material that the owner believes is relevant in determining the property value, and to suggest modification of the proposed purchase terms and conditions. In order to satisfy this requirement, sponsors must allow owners time for analysis, research and development, and compilation of a response, including perhaps the owner obtaining an appraisal. The needed time can vary significantly, depending on the circumstances, but thirty (30) days would normally be the minimum time these actions can be reasonably expected to require. Regardless of project time pressures, property owners must be afforded the opportunity to fully evaluate the airport's purchase offer.

3.2.1.1 **Updating Offer of Just Compensation.**

The sponsor must consider the owner's presentation of valuation information. If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the sponsor must have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information warrants a change in the purchase offer, the sponsor must promptly reestablish just compensation and offer the updated amount to the owner in writing.

[7] 23 CFR 645, Subpart A, "Utility Relocation, Adjustments and Reimbursements."

3.2.1.2 **Coercive Action.**

The sponsor must not advance the time of condemnation; defer negotiations, condemnation, or the deposit of funds with the court; or take any other coercive action in order to induce an agreement on the price to be paid for the property.

3.2.1.3 **Administrative Settlement.**

The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and the sponsor approves such administrative settlement as being reasonable, prudent, and in the public interest. When federal funds pay for or participate in acquisition costs, a written justification must be prepared, which states what available information, including trial risks, supports such a settlement (see Section 3.3).

3.2.1.4 **Payment Before Taking Possession.**

Before requiring the owner to surrender possession of the real property, the sponsor must pay the agreed purchase price to the owner. In the case of a condemnation and for the benefit of the owner, the sponsor must deposit with the court an amount not less than the approved appraisal of the market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the owner, the sponsor may obtain a right-of-entry for construction purposes before making payment available to an owner.

3.2.1.5 **Uneconomic Remnant.**

If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the sponsor must offer to acquire the uneconomic remnant along with the portion of the property needed for the project. As defined in 49 CFR 24.2(a), an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the sponsor has determined has little or no value or utility to the owner.

3.2.1.6 **Fair Rental.**

If the sponsor permits a former owner or tenant to occupy the real property after acquisition for a short term or a period, subject to termination by the sponsor on short notice, the rent must not exceed the fair market rent for such occupancy.

3.2.1.7 **Inverse Condemnation.**

If the sponsor intends to acquire any interest in real property by exercise of the power of eminent domain, it must institute formal condemnation proceedings and not intentionally make it necessary for the owner to

institute legal proceedings to prove the fact of the taking of the real property.

3.2.1.8 **Conflict of Interest.**

No appraiser or other person making an appraisal or a waiver valuation must act as a negotiator for real property for which that person has made an appraisal or a waiver valuation, except if the sponsor permits such a person to negotiate an acquisition where the offer to acquire the property is $10,000 or less.

3.2.1.9 **Negotiations Contact Record.**

To document compliance, the sponsor's negotiator must maintain adequate records of the negotiation contacts with the property owner and/or the owner's representative. The record must be written in permanent form and completed within a reasonable time after each contact with the property owner. Contact entries should indicate the date, place of contact, persons present, offers made (in Dollar amounts), counteroffer, and the sponsor's response to any valuation information provided by the property owner. When negotiations are successful, the negotiator will certify that the written agreement embodies all considerations agreed to between the negotiator and the property owner and that agreement was reached without coercion. When negotiations are unsuccessful, the negotiator must record recommendations for whatever action is considered appropriate, along with any additional information essential to further processing of the acquisition. The report will be signed and dated by the sponsor's negotiator.

3.2.2 Expenses Incidental to Transfer of Title.

3.2.2.1 As soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding, whichever is earlier, the airport owner will reimburse the property owner for all reasonable expenses necessarily incurred for the following:

1. Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the airport owner (The airport owner is not required to pay costs solely required to perfect the property owner's title to the real property.)
2. Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property
3. The pro rata portion of any prepaid real property taxes that are allocable to the period after the airport owner obtains title to the property or effective possession of it, whichever is earlier

3.2.2.2 Whenever feasible, the airport owner must pay these costs directly so that the property owner will not have to pay such costs and then seek reimbursement later. The above expenses may be set forth on the closing statement furnished to the property owner. The claim for these expenditures may be submitted on FAA Form 5100-119, "Claim for Reimbursement of Expenses Incidental to Conveyance of Real Property."

3.2.3 Closing on Acquired Land.

The sponsor must provide evidence to the FAA that the sponsor had acquired adequate title to the needed land for project and airport development. Fee title is generally required for project purposes, although easement acquisition may be sufficient for some airport land uses. In any event, the property interest obtained must be sufficient to allow the airport owner to carry out the obligations and covenants in the grant agreement and be free of encumbrances that might deprive the airport of possession or control for public airport purposes. Appendix D provides a sample sponsor title certification.

3.2.4 Acquisition of Easements or Other Partial Interests in Real Property.

The sponsor must acquire property rights sufficient for the operation and maintenance of the AIP project. Eligible land acquisition for airport development and noise compatibility is described in the AIP Handbook. Consistent with AIP eligibility, fee simple acquisition is generally required for airside development and the RPZ. If fee simple acquisition is determined to be impractical for the RPZ, the sponsor may acquire an avigation easement that adequately restricts land use and precludes incompatible land use (see FAA AC 5190-4, *Airport Compatible Land Use*).

3.2.5 Acquisition of Tenant-Owned Improvements.

When acquiring any interest in real property, the sponsor must offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or determines will be adversely affected by the intended use. This offer must include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.

3.2.5.1 Any building, structure, or other improvement that would be considered real property if owned by the owner of the real property on which it is located, must be considered real property for purposes of acquisition.

3.2.5.2 No payment must be made to a tenant-owner for any real property improvement, except when all of the following conditions are met:

1. The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the airport owner all of the tenant-owner's right, title, and interest in the improvement
2. The owner of the real property on which the improvement is located disclaims all interest in the improvement

3. The payment does not result in the duplication of any compensation otherwise authorized by law

3.2.5.3 Just compensation for a tenant-owned improvement is the amount that the improvement contributes to the fair market value of the whole property, or its salvage value, whichever is greater. When estimating the value of tenant-owned improvements, value in place and contributory value are essentially the same. The following procedure is used to estimate the value of tenant-owned improvements:

1. Determine the highest and best use of the property and then allocate the value of tenant-owned improvements from the value of the whole.
2. Consider the full value or interim-use value of tenant owned improvements as follows:
    a. Full contributory value in place of building, structure, or other improvements for their remaining economic life is applicable when such building, structure, or other improvements are consistent with the highest and best use of the land.
    b. Interim use is applicable when the value of the buildings, structure, or other improvements is not the highest and best use of the land for a specific time period longer than the lease term (include present worth of salvage value).
    c. Value in place of the building, structure or other improvement, plus the present worth of the salvage value at the end of the lease term.
    d. Valuation of items not readily measured in the marketplace are provided in specialty reports.
    e. In instances when a situation may not fit accepted appraisal guidelines/techniques, an administrative settlement may be used with a written justification and explanation.

3.2.5.4 Nothing should be construed to deprive the tenant-owner of any right to reject payment under this paragraph to obtain payment for such property interests in accordance with other applicable law concerning the purchase or condemnation of the tenant’s interest.

3.2.6 Protective Lease Agreements.

Where shown to be cost effective, the sponsor may enter into agreements with a property owner to preclude leasing of the property in anticipation or during purchase negotiations. The protective lease agreement will preclude new or additional tenants from entering occupancy on the property and possibly becoming eligible for relocation payments. Any protective leasing of needed property must be on a short-term basis (i.e., less than six months) in anticipation of closing or filing condemnation for a property. There is no obligation or need to compensate for rental income subsequent to the sponsors purchase of a property. The rental rate on a protective lease should also

recognize the property owner's reduced cost in leasing vacant space to the sponsor. A protective lease agreement may be cost-effective to preclude subsequent occupants on residential property, as well to maintain commercial property vacant in anticipation of acquisition for a project. The FAA project manager may be contacted to discuss the merits of specific proposals.

3.2.7 Eligible Litigation Expenses Under 49 CFR 24.107.

3.2.7.1 There is no obligation under 49 CFR 24 for the sponsor to reimburse the property owner for legal, appraisal, or other expenses of condemnation necessary to secure possession for an AIP project. However, if any one of the three following conditions exist, the sponsor is required under 49 CFR 24.107 to reimburse the property owner for reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees for necessary services that were actually incurred:

1. The acquiring airport starts a condemnation action but the court decides that the airport owner does not have authority to acquire the property by condemnation.
2. The acquiring airport owner starts a condemnation action and abandons it, other than under an agreed-upon settlement.
3. The property owner successfully maintains, by judgmental award or by settlement, an inverse condemnation suit, or similar proceeding.

3.2.7.2 Federal participation in settlement and litigation expenses will be handled on a case-by-case basis, depending on the airport owner's compliance with its commitments to accomplish airport development under a project receiving federal financial assistance and documentation that the airport has followed proper action in the processing of the case. The AIP Handbook further references procedures for reimbursement of condemnation and litigation expenses. See Section 3.4 for information regarding FAA acceptance of condemnation awards of just compensation.

3.3 **Acceptance of Administrative Settlement.**

3.3.1 Administrative Settlement.

3.3.1.1 Administrative settlements are agreed upon settlement made in excess of the sponsor's offer of just compensation for acceptable administrative reasons to reflect the public interest. During negotiations, an administrative settlement may be proposed to preclude more costly and unfavorable litigation and/or to settle a disputed acquisition at reasonable cost. Under the Uniform Act, reasonable attempts to expedite acquisitions by agreements with owners to avoid litigation and relieve congestion in the courts are encouraged. Significant cost savings may be documented in

the use of administrative settlements versus condemnation or terminating stalemated negotiations.

3.3.1.2 There is no need to inflate or diminish the airport's appraisal as support for an administrative settlement. If the owner presents creditable documented appraisal information, then the just compensation offer is updated to complete negotiations (see Section 3.9.a). An administrative settlement however is a judgmental matter to be carefully considered by the sponsor as an option to condemnation or termination of a proposed acquisition where negotiations have reached an impasse on the amount of just compensation. Sound project management requires administrative settlements to reflect the public interest, not merely as a matter of convenience. Adequately supported settlements are an eligible property acquisition cost.

3.3.2 Adequate Written Documentation Required for FAA Acceptance of an Administrative Settlement.

3.3.2.1 The sponsor must prepare and maintain adequate written justification that the settlement is prudent and in the public interest. The written explanation must be commensurate with the settlement amount involved. Small settlements, or within 10% of the appraised value, may only require brief discussion noting the amounts involved and evidencing the sponsor's approval. Settlements that involve substantial amounts or large increases require full analysis and discussion to verify the settlement amount is clearly cost effective and reflects the public interest. Amounts attributed to noncompensable items under federal law, should be excluded from federal participation (see Chapter 2, Non Allowable Land Cost). At a minimum, the sponsor must cite the items listed below (as applicable) to support a settlement amount:

1. The probable range of testimony in litigation, including the airport's approved appraisals and the property owner's appraisals
2. The type of property involved and damages, if any
3. Recent court awards in the vicinity (particularly involving similar property)
4. A summary of the negotiation effort and the recommendation of the negotiator to conclude the purchase with a settlement
5. The estimate of trial cost, including preparations
6. The advice and opinion of the sponsor's legal counsel

3.3.2.2 The appropriate airport official having management responsibility for the acquisition project will ultimately approved the administrative settlement.

3.4 **Condemnation Awards.**

3.4.1 Condemnation.

When negotiations conforming to this Chapter for an amicable purchase agreement are not successful, the sponsor may apply its eminent domain authority and file condemnation for possession of needed property. The sponsor's legal counsel represents the sponsor in condemnation and is responsible for subsequent negotiations, the selection of trial witnesses, and settlement and appeal determinations. Legal counsel must consult with the sponsor and its project management prior to the settlement of the condemnation case for an amount substantially different from the established just compensation or any other legal decision that affects the cost for possession of the needed property. Prior to requiring an owner to surrender possession of the real property, the sponsor must deposit with the court, for the benefit of the owner, an amount not less than the sponsor's approved appraisal of the market value of such property, or the court award of compensation in the condemnation proceeding for the property.

3.4.2 Mediation and Condemnation Settlements.

3.4.2.1 At any time prior to court trial, the sponsor's legal counsel may secure a settlement in lieu of trial. An administrative settlement may be made if justified as described in Section 3.3. Where the sponsor's legal counsel makes settlement, the settlement justification described in Section 3.3 should be supplemented by the following:

1. A signed statement by the attorney who handled the case describing reasons that the settlement is in the sponsor's interest with supporting data and analysis as appropriate
2. A signed statement by the sponsor management indicating concurrence in the proposed settlement and explanation of any reservations on the proposed settlement

3.4.2.2 Amounts attributed to noncompensable items under federal law, should be excluded from federal participation (see Section 2.1.6).

3.4.3 Condemnation Awards.

A condemnation award is eligible for reimbursement with federal funds provided that the amount of the award is reasonable. Amounts attributed to noncompensable items under federal law should be excluded from federal participation (see Section 2.6). The condemnation award must be supported by adequate trial report citing the range of value testimony, major issues, and any comments and recommendations on possible legal error and possible success in requesting a new trial, remittitur, and/or appeal. The sponsor should indicate their concurrence and/or acceptance in the trial report and any legal recommendations.

3.4.4 Acquisition of Public Streets, Highways, Roads and Other Public Use Property.

3.4.4.1 **Public streets, highways, and roads.**

Only nominal compensation is owed for closed or vacated streets. For example, the streets that had served an acquired neighborhood would be closed and vacated under applicable law to preclude continued public access to the acquired property. When the airport acquired the subdivision lots, the property owners were already compensated for the value of the street access to their lot. If there were a necessity for the governmental unit from which the street had been acquired to replace the street, then the cost of replacing the street with a functionally equivalent would be just compensation for the taking. Therefore, appraisals are seldom needed, nor should they be prepared, because streets that do not need replacement require only nominal compensation, and compensation for streets that require replacement is generally measured by the replacement cost.

3.4.4.2 **Other public use property.**

Condemnation of property in prior public use may not be authorized under state law. The sponsor may need to rely on other state law or procedures to secure needed property for the airport project.

CHAPTER 4. RELOCATION ASSISTANCE

4.1 Requirements.

4.1.1 Sponsor Relocation Program (49 CFR 24, Subpart C).

Under the Uniform Act, the sponsor must provide an adequate relocation assistance program, ensuring prompt and equitable relocation and reestablishment of persons displaced as a result of its federally-assisted airport projects. As defined in the Uniform Act and used in this AC, the term "person" refers to any individual (i.e., residential or business occupant), family, partnership, corporation, or association. Sponsors must provide advisory assistance and conduct the relocation program so that displaced persons receive uniform and consistent services and payments, regardless of race, color, sex, or national origin. Sponsors must maintain adequate documentation to evidence compliance with the Uniform Act and their grant assurances provided to FAA.

4.1.2 Eligibility for Relocation Payments.

All persons that are displaced from or for an AIP-assisted project may be eligible for relocation assistance and payments.

4.1.2.1 Displaced persons.

As defined in the Uniform Act, the term "displaced person" refers to any person who moves from the real property, or moves personal property from the real property, as a direct result of (1) a written notice of intent to acquire, (2) the initiation of negotiations for, or (3) the acquisition of such real property, in whole or in part, for a project. Additionally, "displaced person" refers to any person who moves personal property from non-acquired real property, as a direct result of (1) a written notice of intent to acquire, or (2) the acquisition of other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such "displaced person" applies only for purposes of obtaining relocation assistance advisory services and moving expenses.

4.1.2.2 Persons not displaced.

The following is a non-exclusive listing of persons who do not qualify as displaced persons under the Uniform Act:

1. A person who moves before the initiation of negotiations, unless the sponsor determines that the person was displaced as a direct result of the program or project
2. A person who initially enters into occupancy of the property after the date of its acquisition for the project
3. A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act
4. A person who is not required to relocate permanently as a direct result of a project

a. Care must be exercised to ensure that occupants in this category are treated fairly and equitably on the sponsor's AIP-assisted programs because they are not necessarily considered displaced persons. Tenants on airport property (e.g., fixed base operators, terminal tenants) that is being renovated or demolished under an AIP-assisted project may or may not be considered displaced persons depending on their existing lease terms for the right of continued occupancy. An increase in rent corresponding to improved facilities is not considered sufficient justification to consider an existing tenant "displaced," even though the tenant may decline the opportunity to re-release property from the airport.

5. An owner-occupant who moves as a result of a "voluntary" acquisition
6. A tenant displaced as a direct result of this type of "voluntary" transaction is a "displaced person" and is entitled to the relocation assistance and payments that he/she may be eligible for under the Uniform Act.
7. A person whom the sponsor determines is not displaced as a direct result of a partial acquisition
8. A person who, after receiving a notice of relocation eligibility, is notified in writing that displacement from the project will not occur
   a. The notice of relocation eligibility should only be issued if (i) the displaced person has not yet moved, and (ii) the sponsor agrees to reimburse any expenses that the person would incur due to relocation, in order to satisfy existing contractual obligations.
9. A person who retains the right of use and occupancy of the real property for life following its acquisition by the sponsor
10. A person who is determined to be in unlawful occupancy prior to the initiation of negotiations, or a person who has been evicted for cause under applicable law.
    a. Eviction for cause must conform to applicable state and local law. Any person in lawful occupancy at the start of negotiations is entitled to relocation assistance and payments, unless the sponsor discovers the following:
       i. Either the person received an eviction notice prior to the start of negotiations and was later evicted as a result of that notice, or the person was evicted after the initiation of negotiations for serious and repeated violation of material terms of the lease agreement.
       ii. The eviction was not undertaken to evade the relocation payment obligations.

11. A person who is not lawfully present in the United States and who has been determined as ineligible for relocation benefits, in accordance with Section 4.1.3 of this AC.

4.1.3 Denial of Federally Funded Relocation Assistance and Payments to Illegal Aliens.

No relocation payments or relocation advisory assistance will be provided to any person who has not provided the certification described in this section or who has been determined to be not "lawfully present" in the United States, unless such person can demonstrate to the airport sponsor's satisfaction that the denial of relocation benefits will result in an exceptional and extremely unusual hardship to his/her spouse, parent, or child who is a U.S. citizen, or is an alien lawfully admitted for U.S. permanent residence. (See Section 4.1.3.e for qualifying hardship criteria.)

4.1.3.1 **Definition.**

An alien who is not "lawfully present" in the United States is defined in 8 CFR 103.12, including the following:

1. An alien present in the U.S. who has not been admitted or paroled into the U.S. pursuant to the Immigration and Nationality Act, and whose stay in the U.S. has not been authorized by the U.S. Attorney General
2. An alien who is present in the U.S. after the expiration of the period of stay authorized by the U.S. Attorney General or who otherwise violates the terms and conditions of admission, parole, or authorization to stay in the U.S.

4.1.3.2 **Self-certification.**

4.1.3.2.1 As a condition of eligibility, each person seeking relocation payments or relocation advisory assistance must certify that they meet the following requirements:

1. In the case of an individual, he or she must be either a U.S. citizen or U.S. national.
2. In the case of a family, each family member must be either a U.S. citizen or U.S. national, or an alien who is lawfully present in the U.S., which may be certified individually or by the head of the household on behalf of other family members.
3. In the case of an unincorporated business, farm, or non-profit organization, each owner must be either a U.S. citizen or U.S. national, or an alien who is lawfully present in the U.S., which may be certified individually or by the principal owner, manager, or operating officer on behalf of other persons with an ownership interest.
4. In the case of an incorporated business, farm, or non-profit organization, the corporation must be authorized to conduct business within the U.S.

4.1.3.2.2 These certifications are provided on FAA Form 124, "Non-Residential Relocation Claim" and on FAA Form 125, "Residential Relocation Claim Form."

4.1.3.3 **Certification acceptance.**

The sponsor must consider the certification provided as valid unless the sponsor determines it is invalid based on a review of a person's documentation or other information that the agency considers reliable and appropriate. Any review by the sponsor of the certifications provided must be conducted in a nondiscriminatory manner. Each airport sponsor must apply the same review standards to all such certifications but these standards may be revised periodically.

4.1.3.4 **Verification procedure (required if certification is not accepted).**

After reviewing a person's documentation or other credible evidence, if the sponsor determines that his/her certification is invalid and, as a result, he/she may be an alien not lawfully present in the U.S., the sponsor must obtain verification through the following means before making a final determination:

1. For a person who has certified that he/she is a U.S. citizen or U.S. national, if the sponsor determines that the certification is invalid, the displacing agency must request evidence of U.S. citizenship or nationality from the person and verify the accuracy of this evidence with the issuer if considered necessary.
2. For a person who has certified that he/she is an alien lawfully present in the U.S., if the sponsor determines that the certification is invalid, the displacing agency must verify the person's status through a field office of the U.S. Citizenship and Immigration Service (USCIS).[8]

4.1.3.5 **Exceptional and extremely unusual hardship.**

A spouse, parent, or child of a person determined to be not lawfully present in the U.S. is considered under "exceptional and extremely unusual hardship'' if the displacing determines that the denial of relocation payments and advisory assistance to the person would result in the following:

1. A significant and demonstrable adverse impact on the health or safety of a spouse, parent, or child;

[8] For a list of local USCIS offices, refer to the "USCIS Service and Office Locator": https://egov.uscis.gov/crisgwi/go?action=offices.type&OfficeLocator.office_type=LO. If an agency is unable to contact the USCIS field office, it should contact FAA for referral. All requests for USCIS verification must include the alien's full name, date of birth, alien number, and a copy of the alien's documentation.

2. A significant and demonstrable adverse impact on the continued existence of the family unit, of which a spouse, parent, or child is a member; or
3. Any other significant and/or demonstrable adverse impact on a spouse, parent, or child as determined by the displacing agency.

4.1.4 Qualified Voluntary Transaction – Selling Owner Not Displaced.

Owner-occupants who sell their property under the voluntary transaction exemption are not considered "displaced persons" and are not eligible for relocation payments. The airport owner may offer selling owners relocation advisory services (as noted in Chapter 4). However, eligible tenant occupants are considered "displaced persons" and entitled to relocation assistance and payments.

4.1.5 Eviction for Cause.

Eviction for cause must conform to applicable state and local law. Any person who occupies the real property and is not in unlawful occupancy on the date of the initiation of negotiations is presumed as entitled to relocation payments and other assistance set forth in Section 4.1 of this AC, unless the sponsor determines the following:

1. Either the person received an eviction notice prior to the initiation of negotiations and was later evicted as a result of that notice, or the person was evicted after the initiation of negotiations for serious and repeated violation of material terms of the lease agreement.
2. The eviction was not undertaken to evade the relocation payment obligations.

4.1.6 Property Adjacent to Acquired Project Property.

If the sponsor determines that acquisition of the project property causes substantial economic injury to a person occupying adjacent property, it may offer advisory services to that person (as noted in Chapter 3) but that person is not considered a "displaced person" or eligible for relocation payments.

4.1.7 No Waiver of Relocation Assistance.

The sponsor must not propose or request that a displaced person waive his/her rights or entitlements to relocation assistance and payments, as provided by the Uniform Act and 49 CFR Part 24.

4.1.8 Qualified Relocation Personnel.

For each airport project where relocation will occur, the sponsor should assign qualified individuals with the primary responsibility of administrating the relocation assistance program.

4.1.9 Advance Payments.

If a person demonstrates the need for an advance relocation payment in order to avoid or reduce a hardship, the sponsor must issue the payment, subject to appropriate safeguards that ensure the objective of the payment is accomplished.

4.1.10 Deductions from Relocation Payments.

The sponsor must deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. The sponsor must not withhold any part of a relocation payment to a displaced person in order to satisfy an obligation to any other creditor.

4.1.11 Claims for Relocation Payments.

4.1.11.1 A displaced person must place claims for relocation payments within 18 months of the move-out date or the date of final payment for the acquired property, whichever occurs later. The sponsor may extend this time period for good cause. Relocation payment claims must be signed, dated, and supported by relevant documentation that may be reasonably required to support expenses incurred (e.g., lowest approved bid or estimate, bills, certified prices). The sponsor must provide a displaced person any reasonable assistance that is necessary to complete and file any required payment claim. FAA Forms 5100-124 and 5100-125 may be used as claim forms.

4.1.11.2 If the sponsor disapproves all or part of a payment claimed, or refuses to consider the claim on its merits because of untimely filing or other grounds, it must promptly notify the claimant of its determination in writing, including the basis for the determination and procedures for appeal.

4.2 **Relocation Planning and Advisory Assistance.**

4.2.1 Project Planning Stage.

4.2.1.1 Early in project development, a sponsor must identify sufficient relocation assistance measures to recognize and minimize adverse impacts of displacement on individuals, families, businesses, farms, and non-profit organizations. Such planning must precede any action by the sponsor that will cause displacement. These measures should be commensurate with the complexity and nature of the anticipated project and include an evaluation of available program resources needed to conduct timely and orderly relocations.

4.2.1.2 Relocation planning in early project development is normally conducted as part of the NEPA approval processes, as described in FAA Order 5050.4. However, the sponsor's relocation staff should develop a separate relocation plan to serve as a working document throughout the relocation process. This relocation plan may be developed by secondary sources, based on a relocation survey or study that includes the following types of information:

1. An estimate of the number of households to be displaced, including owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of impacts on minority groups, elderly persons, large families, and persons with disabilities
2. An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced
    a. When an adequate supply of comparable housing is not expected to be available, the Sponsor should consider actions for housing of last resort.
3. An estimate of the number, type, and size of businesses, farms, and non-profit organizations to be displaced, as well as the approximate number of employees that may be affected
4. An estimate of the availability of replacement business sites
    a. When an adequate supply of replacement business sites is not expected to be available, the impacts of displacing the businesses should be considered and addressed.
    b. Planning for displaced businesses that are expected to involve complex or lengthy moving processes, or small businesses with limited financial resources and/or few alternative relocation sites, should include an analysis of business moving problems.
5. Consideration of any special relocation advisory services from the sponsor and other cooperating agencies that may be necessary

4.2.2 Acquisition Stage Relocation Plan / Interview of Displaced Person (Residential and Business).

4.2.2.1 Prior to initiation of negotiations on a property, and as is feasible for business displacement prior to defining the appraisal scope of work, an acquisition stage relocation plan should be prepared based on personal interviews of the identified displaced persons (residential occupants and businesses, including farms and non-profit organizations). This interview must be conducted prior to developing the relocation eligibility offer (see Section 4.3.4). The sponsor should conduct this interview in person at the displaced residence or place of business. If not already provided, the sponsor must provide the displaced person the General Information Notice (see Section 4.3.3) at this interview and advise them to contact the sponsor's relocation agent for any subsequent questions.

4.2.2.2 The following paragraphs describe the regulatory requirements for sponsor interviews of displaced persons and businesses, as well as subsequent determination of necessary relocation assistance and eligible relocation

payment eligibility notices and offers. Figures 4-1 and 4-2 provide sample interview forms for displacement of residents and businesses, respectively.

4.2.2.2.1 Displacement interview/questionnaire – residential.

For each residential displaced person, the sponsor must conduct a personal interview to determine his/her relocation needs and preferences. The sponsor must then provide information about relocation payments and other assistance for which the person may be eligible, and explain any related eligibility requirements and procedures for obtaining such assistance.

4.2.2.2.2 Displacement interview/questionnaire – business or non-profit organization.

For each displaced business, the sponsor must conduct a personal interview to determine its relocation needs and preferences. The sponsor must then provide information about relocation payments and other assistance for which the business may be eligible, and explain any related eligibility requirements and procedures for obtaining such assistance. At a minimum, interviews with displaced business owners and operators must include discussion of the following topics, as applicable:

1. Replacement site requirements, current lease terms, other contractual obligations, and the financial capacity of the business to accomplish the move
2. Requirements for any outside specialists to assist in planning and executing the move, including reinstallation of business equipment (e.g., heavy machinery, complex technologies) and other property
3. For businesses, an identification and resolution of realty/personalty issues
    a. To ensure an acceptable and orderly relocation, every effort must be made to provide the appraiser an acceptable realty/personalty determination prior to, or at the time of, the appraisal of the property.
4. Estimate of the time required for the business to vacate the site
5. Estimate of the anticipated difficulty in locating a replacement property
6. Identification of any advance relocation payments required for the move, including the sponsor’s legal capacity to provide them

Figure 4-1. Sample Displaced Occupant Questionnaire – Residential

Project No.:_____; AIP No.:_____, Parcel No.:_____,
Name:_____ Address:_____
How long at this address: _____

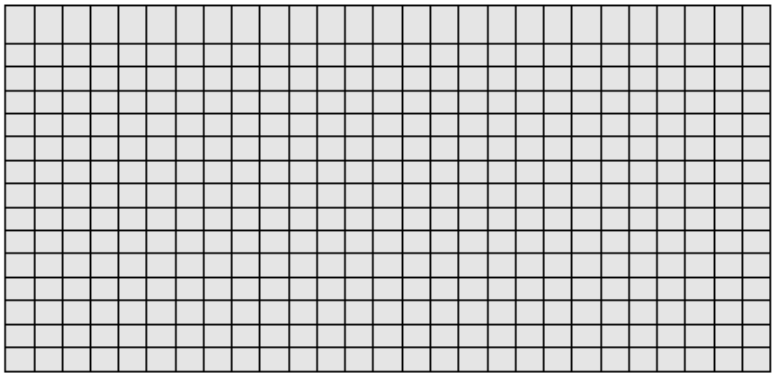
Household Composition:

Relationship	Age	Sex	Employer/School - Distance - Transportation	Gross Income

Remarks:(Special needs for relocation, considerations, etc.)

Distance to :Public Transportation:____; Groceries:_____; Shopping:_____ Recreation: _____; Church: _____,
other:_____
==========
Acquired Property Data: (Appraisal and on site verification)
Structure Type:_____Age:_____ Condition:_____;Rooms: Total:___, Bedrooms:___, Bath(s):_____;
Bsmt:__F__P__finished; Laundry/mud Rm: ___; Storage:____ Heat:___; Fuel___, A/C:___; Fireplace:___;
Other interior amenities/features:_____
Exterior:Garage:____;Deck/Patio:__; Pool:___; Outbldgs/Sheds____; Other: ____Neighborhood type:_____
DSS? , If No, cite deficiencies:_____
Ownership Info: Mortgage Amt:_____; Mortgage Date:____; Original Term:___; Interest Rate:___Fixed/ARM
Current Balance: $_____; Remaining Term:____;Current Monthly Payment:$_____Escrow Amounts:$_____
ARM Specifications: Index:_____, Annual adjustment cap:____, Overall Cap:____, Loan Adjustment Date: _____
Tenant Info: Lease Date:_____Term: _____ Landlord/Property Manager:_____, Phone:_____
Monthly Rent:_____, Monthly Utilities:_____(only heat/elect./water/sewer)
==========
Comparable Property Needs: Habitable Area:____sqft, DSS Need_____sqft; Rooms:___total,___bedrooms,___baths
Replacement Housing Preferences: Purchase___Rent:__, Location(s): _____
Type of Dwelling?:_____ Price Range: $_____to $_____,Other:_____
Housing of Last Resort Required?:___Yes____No
==========

FLOOR PLAN SKETCH



Room	Size sq.ft.
Kitchen	
Living Rm	
Dining Rm	
Family Rm	
Bedroom	
Bedroom	
Bedroom	
Bedroom	
Bsmt (fin. sqft)	
Laundry/mud rm	
Total Habitable Area	

Figure 4-2. Sample Displaced Occupant Questionnaire – Business or Non-Profit Organization

Project # _____; AIP #: _____, Parcel #: ___,

Name: _____ Owner: ____ Tenant _____
Address: _____
How long at this address: _____
==========

Business/NPO Name:_____

Description of Business:_____

_____

Estimated Average Annual Net Income: $_____, Source: _____
Number of Employees on site: _____

Acquired Property Data: Major Building: (Appraisal and on site verification)
Owned

Structure Type:_____ Age: ___ Condition: _____; Floors: __Total Sq.Ft: ____ Office SqFt:__,

Warehouse/Plant SqFt:___; Loading dock: ____; Bays ___; Floor Spans: ____; Flooring:_____
HV/AC: _____ ,Furnace: _____; Cold stg. _____; etc.:_____

Exterior: Parking Area: _____; %Paved: _____ ; Storage: _____Garages/Sheds/StorageBldgs: _____

Tanks: _____Ponds: _____ Excess land: _____

Utilities: Elec: _____, _____, _____ Gas: _____, _____; Oil: _____,

Water: _____(gal cap).; Sewer: _____(gal.cap.) On-site tanks: Fuel: ____, chemical: _____, Waste: ___,

Business Site features:

Street/highway Access: _____- Visibility: _____ Rail: _____; Airport: _____

Phone/Communications/Computer Facilities: _____
_____

Zoning: _____, Licenses/Permits:(operational, zoning, waste disposal):_____
Other features:_____
_____
==========
Customer/Trade Area Description:
_____
_____
==========
Personal Property:(General Description/Volume):_____
Machinery; Lists types_____
_____
==========

Figure 4-2 (cont.) Sample Displaced Occupant Questionnaire – Business or Non-Profit Organization

Business/NPO Owner/Operator's Interview:

Date:

Place of Discussion:

1. What are the business's replacement site requirements, current lease terms and other contractual obligations and the financial capacity of the business to accomplish the move?

2. Is there a need for outside specialists that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property?

3. What is the estimated length of time required for the business to vacate the site?

Anticipated Move Start Date:

4. Replacement Property Requirements:

Locations:_____,_____,_____,_____,_____
Zoning:_____,Utilities:_____
Buildings:_____
Site :_____

Purchase/Rental Range: $_____ to $_____

5. Is there a need for any advance relocation payments (deposits, equipment rental, etc)?

4.2.3 Replacement Property Listings to Be Maintained.

4.2.3.1 On a project-wide basis, the sponsor must maintain current listings of comparable replacement dwellings available, without discrimination of race, color, religion, national origin, etc. These listings must be drawn from various sources and suitable in price, size, and condition for displaced individuals and families. Listings should be procured from Multiple Listing Services (MLS) of local realtor boards, newspapers and other publications, including private listings. The sponsor must maintain current listings information, as it will be relied upon to identify and select the most comparable property for determining the replacement housing payment eligibility (see Chapter 6). The listings information will also document the thoroughness of the sponsor's relocation assistance efforts.

4.2.3.2 To assist displaced businesses, farms, and non-profit organizations, the sponsor must maintain available listings and contacts with commercial and agricultural real estate brokers, commercial lenders, and government economic development agencies, in order to assist selection of suitable relocation sites.

4.2.4 Eligibility for Relocation Advisory Services.

Relocation assistance advisory services must be offered to all persons occupying property to be acquired. Additionally, such services may be offered to persons occupying property immediately adjacent to the real property acquired if the sponsor determines that such persons are caused substantial economic injury because of the acquisition.

4.2.5 Minimum Advisory Services Requirements.

At a minimum, the sponsor's relocation advisory services program must include such measures, facilities, and services as may be necessary or appropriate to meet the following requirements:

1. Determine the relocation needs and preferences of each person to be displaced and provide information about relocation payments and other assistance for which the person may be eligible, related eligibility requirements and procedures for obtaining such assistance (see Section 4.2.2).
2. Provide current and continuing information on availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that a person cannot be required to move unless at least one comparable replacement dwelling is made available.
3. For residential displacement, as soon as feasible, must inform the displaced person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment. When feasible, selected replacement housing must be inspected prior to being made available in order to assure that it meets comparability requirements and decent, safe, and sanitary (DSS) standards. If such an inspection is not made, the person to

be displaced must be notified that a replacement housing payment may not be made unless the replacement dwelling to be purchased is subsequently inspected and determined to meet DSS standards (see Chapter 6).

4. Whenever possible, minority persons must be given reasonable opportunities to relocate to DSS replacement dwellings, which are within their financial means and not located in an area of minority concentration. However, the sponsor is not required to provide a person a larger payment than is necessary to enable that person to relocate to a comparable replacement dwelling.
5. Offer transportation to all persons, especially the elderly and handicapped, as needed in order to inspect replacement dwellings.
6. Provide current information on availability, purchase prices, and rental costs of suitable commercial and farm properties, for displacement of business, farm, or non-profit organizations. Additionally, the sponsor must assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.
7. Supply persons to be displaced with appropriate information concerning federal and state housing programs, disaster loans, programs administered by the Small Business Administration (SBA), and other federal and state programs assisting displaced persons, including related technical assistance for application.
8. Provide counseling, advice about available sources of assistance, and other appropriate help in order to minimize adjustment hardships for relocated persons.
9. Ensure advisory services for any person deemed eligible by the sponsor who occupies property acquired by the sponsor, when such occupancy began subsequent to the acquisition of the property, and the occupancy is permitted by a short-term rental agreement or an agreement subject to termination when the property is needed for a program or project.

4.2.6 Coordination With Other Agencies Offering Assistance To Displaced Persons.

To conduct a successful relocation program, relocation staff should maintain personal contact and exchange information with other agencies providing services useful to persons being relocated. Such agencies may include urban renewal agencies, redevelopment authorities, public housing authorities, the Department of Housing and Urban Development (HUD), Department of Veterans Affairs (VA), and the SBA. Personal contacts should also be maintained with local sources of information on private replacement properties, including real estate brokers, real estate boards, property managers, apartment owners and operators, and residential construction contractors.

4.3 **Relocation Notices.**

4.3.1 Relocation Information Provided at a Public Hearing.

The sponsor should provide an information brochure that describes the relocation program developed for its AIP-assisted projects. The FAA brochure entitled *Land Acquisition for Public Airports* is available for use on sponsor projects.

4.3.2 Manner of Notices.

Relocation notices must be served personally or sent by certified or registered first-class mail, with return receipt requested and documented in the sponsor's files. The sponsor must provide notices with appropriate language translation and adequate interpretative assistance to displaced persons who may be unable to read English. Each notice must indicate contact information (e.g., names, telephone numbers, email addresses) for the sponsor's relocation staff. Sections 4.3.3 – 4.3.5 describe the types of notices that sponsor is required to provide.

4.3.3 General Information Notice.

As soon as feasible, persons scheduled for displacement must be given a general written description of the sponsor's relocation program. A relocation brochure (see Section 4.3.1) may be used for this purpose if it is personally presented and explained concerning the displaced person's case. This notice must state that any alien not lawfully present in the U.S. is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child (see Section 4.1.3).[9]

4.3.4 Notice of Relocation Eligibility.

The sponsor must notify all occupants (owners and tenants) in writing of their eligibility for applicable relocation assistance and payments at the initiation of negotiations, or promptly thereafter. This notice must cite the specific relocation payment eligibility for the displaced person, and must identify and offer relocation assistance to the displaced person. Specific notification requirements related to tenant occupants are as follows:

4.3.4.1 Tenant occupants are entitled to relocation payments as of the initiation of negotiations, and a tenant occupant must be advised of relocation payment eligibility on or promptly after this date. During delivery of this notice, tenant occupants should be advised that they remain liable to their existing lease with the property owner until the sponsor acquires possession of the property.

4.3.4.2 For qualified voluntary transactions [see Section 4.1.2(b)(5)], tenant occupants should be further advised that the property may not be acquired if agreement is not secured with the property owner. Additionally, tenants

[9] 49 CFR 24.208(i)

should be advised to not initiate a move from the property until advised by the sponsor that the property will actually be acquired.

4.3.4.3 After initiation of negotiations, but prior to any occupant moving from the property, if the sponsor decides not to acquire the property, the owner and/or tenant occupants must be advised in writing that the property will not be acquired and that they will not be displaced from the property. Occupants may claim payment for actual, reasonable, and necessary relocation expenses that they may have incurred prior to notification that they will not be displaced (see Section 4.1.2(b)).

4.3.5 90-Day Notice to Vacate.

4.3.5.1 No lawful occupant will be required to move unless he/she has received at least 90 days written notice in advance of the earliest required move date. The 90-day notice must either state a specific date as this earliest date, or state that the occupant will receive a further notice indicating the specific date to vacate the property at least 30 days in advance. For residential property, if the 90-day notice is issued before a comparable replacement dwelling is made available (see Chapter 6), the notice must state that the occupant will not be required to move earlier than 90 days after such a dwelling is made available. For residential property, it is typically recommended that the 90-day notice be provided along with the notice of relocation eligibility.

4.3.5.2 Figures 4-3 and 4-4 provide sample notice of eligibility letters to residential property owner-occupants and tenants, respectively, including 90-day notices to vacate (see Section 4.3.5). Figure 4-5 provides an example of a notice to a displaced business occupant, noting eligible cost for a non-residential move (see Section 5.2.2.b). This sample reflects a somewhat “simple” business move and, for more complex moves, several and separate notices may be required to adequately notify the displaced person of their payment eligibility.

Figure 4-3. Notice of Eligibility (Owner) and 90-Day Notice to Vacate

Dear Mr. & Mrs. Homeowner:

As you are aware, the Airport Authority is currently acquiring property needed for the proposed expansion of the Orville Municipal Airport and has initiated negotiations to acquire your property. As an owner-occupant for at least 90 consecutive days prior to the initiation of negotiations for the property, you are eligible for the certain relocation assistance payments to assist your relocation to a replacement property. Your eligible payment amounts have been determined in accordance with the Airport Authority's approved relocation assistance program for federally assisted projects. Please refer to the enclosed brochure entitled, "Land Acquisition for Public Airports", for general information on the airport's relocation assistance process. Your payment eligibility is estimated as follows.

1. Moving expenses. The actual reasonable and necessary expenses for moving personal property, accomplished by a commercial mover and supported by receipted bills, or a fixed payment of $, based on a schedule of payments for the number of rooms of personal property you are required to move.

2. Replacement Housing Payment. A survey and study of the property available to replace your dwelling finds that you are eligible for a maximum replacement housing payment of $___, provided you purchase and occupy a decent, safe, and sanitary dwelling with a total cost of $___, or more. This replacement housing payment eligibility is based on a property located at (address) which is listed for sale at $. You will be reimbursed actual and reasonable expenses incurred on closing the purchase of a comparable replacement dwelling. This amount is estimated to be $___.

4. Increased Mortgage Interest. You are eligible for the increased interest cost you incur for a conventional mortgage on a replacement property to the extent of the remaining balance and term of the mortgage on the acquired property. This payment is estimated to be $___, which compensates the increased interest cost of a replacement mortgage (maximum*) interest rate of X% versus the X% rate of your current mortgage, for a loan amount equal to your current mortgage balance of $___, and a remaining term of X months. This payment will reduce the replacement mortgage balance to an amount where the monthly payment at the higher current (potential*) interest rate will not exceed the monthly amortization payment on the pre displacement mortgage. In addition, loan origination fees incurred on a replacement mortgage, not to exceed cost corresponding to the amount of the mortgage balance on the acquired dwelling, are reimbursable.

RELOCATION CONTACT NAME is the Airport Authority's representative assigned as needed to assist your relocation. NAME will further explain the relocation process and answer your questions concerning your relocation payments. In order for you to maintain eligibility for subsequent relocation payments, please advise and consult with Ms. Wilson before committing to or taking any action regarding purchasing a replacement property or moving your personal property.

At this time it is necessary to advise you that you will have at least 90 days to remain on your property. At a later date, and after the Airport Authority has acquired the property, you will be provided a 30-day notice citing a specific date for you to vacate the acquired property. NAME phone number is given below, and please do not hesitate to contact her should have any questions or concerns regarding your potential relocation.

Airport Manager

Figure 4-4. Notice of Eligibility (Tenant) and 90-Day Notice to Vacate

Dear Mr. Tenant:

As you may be aware, the Airport Authority is currently acquiring property needed for the proposed expansion of the Orville Municipal Airport and has initiated negotiations to acquire the property you currently are renting. As a tenant-occupant for at least 90 consecutive days prior to the initiation of negotiations for the property, you are eligible for the certain relocation assistance payments to assist your relocation to a replacement property. Your eligible payment amounts have been determined in accordance with the Airport Authority's approved relocation assistance program for federally assisted projects. Please refer to the enclosed brochure entitled, "Land Acquisition for Public Airports", for general information on the airport's relocation assistance process. Your payment eligibility is estimated as follows.

1. Moving expenses. Actual reasonable and necessary expenses for moving personal property, accomplished by a commercial mover and supported by receipted bills, or a fixed payment of $, based on a schedule of payments for the number of rooms of personal property you are required to move.

2. Replacement Housing Payment. A survey and study of the property available to replace your dwelling finds that you are eligible for a maximum replacement housing payment of $___, provided you lease and occupy a decent, safe, and sanitary dwelling with monthly rent and utilities of $___. or more. This replacement housing payment eligibility is based on a property located at (address) which is available for rent at $__, and estimated monthly utility cost of $___. The amount of the replacement housing payment is the additional cost of a comparable replacement dwelling for a period of 42 months following your displacement from the acquired property.

3. Downpayment Option. You may, at your option, apply your replacement housing payment eligibility as a "required" downpayment for the purchase of a replacement dwelling. If the amount of the required downpayment is greater than the rental replacement housing payment eligibility above, the higher amount will be paid not to exceed $7,200.00. The "required downpayment" means the downpayment ordinarily required to obtain conventional loan financing on the decent, safe, and sanitary dwelling you actually purchase. The full amount of the downpayment must be applied to the purchase price of the dwelling and related incidental expenses.

RELOCATION CONTACT NAME is the Airport Authority's representative assigned as needed to assist your relocation. RELOCATION CONTACT NAME will further explain the relocation process and answer your questions concerning your relocation payments. In order for you to maintain eligibility for subsequent relocation payments, please advise and consult with Ms. Wilson before committing to or taking any action regarding purchasing a replacement property or moving your personal property.

At this time it is necessary to advise you that you will have at least 90 days to remain on your property. At a later date, and after the Airport Authority has acquired the property, you will be provided a 30 day notice citing a specific date for you to vacate the acquired property. However, please be advised that prior to the Airport Authority acquisition of your leased property you remain obligated to your present lease for payment of rent and other terms and conditions of your lease. NAME phone number is given below, and please do not hesitate to contact him/her should have any questions or concerns regarding your potential relocation.

Airport Manager

Figure 4-5. Sample Notice of Eligibility, Non-Residential Move

Dear Ms. Business Operator:

When the airport acquires your present business site, you will be entitled to certain payments and assistance to move your personal property to a replacement property, and certain costs of reestablishing your business at the replacement site. Your eligible payment amounts have been determined in accordance with the Airport Authority's approved relocation assistance program for federally assisted projects. Please refer to the enclosed brochure entitled, "Land Acquisition for Public Airports", for general information on the airport's relocation assistance process. Your payment eligibility is estimated as follows, as subject to the cited conditions.

1. Moving and Storage expenses. You may claim payment for your actual, reasonable, and necessary eligible expenses for moving your personal property to the replacement site, and for the reconnection and reinstallation of machinery and equipment relocated to the replacement site. Your payment eligibility is estimated as follows, depending on your choice of COMMERCIAL MOVER or SELF MOVE or feasible combination:

COMMERCIAL MOVER and other required services supported by receipted bills, not to exceed $_____, which is the lower of two bids received to perform eligible work.

SELF MOVE, and upon completion of a move you may claim an amount negotiated based on the estimated cost of the work you propose to assume. A separate self move agreement will be executed that lists all or some of the required work, for which you are assuming responsibility. The moving costs estimates are based on the inventory of personal property items to be moved as of (DATE), and ultimate reimbursable costs will be affected by any substantial change in this inventory or changes to other specifications of the work required.

2. Loss of Tangible Personal Property and Substitute Item. At your option, you are entitled to be paid the lesser of moving cost, or the value in place of items that you choose not to relocate. Also, for eligible items that you choose not to move but promptly replace at your new location, you may claim the lesser of moving costs or the cost of the substitute items. Items claimed under this option will be deleted from the above eligibility for moving costs. All items claimed under this category must be sold or bona fide attempt made to sell a marketable item, and sale proceeds verified and deducted from your relocation payment claim to the airport.

3. Reestablishment Expenses. You may be eligible for up to $25,000 for cost to reestablish your business at the new location. These costs may include certain costs not eligible for reimbursement as moving cost. Eligible reestablishment expenses are enumerated in the brochure provided.

4. Search Expenses. You may be eligible for up to $2,500 to reimburse your eligible expense to search for a replacement site.

5. High bulk low value items. The airport agrees to pay you $_____ for the attached listing of items and stockpiled goods. (For items where the cost of a move exceeds their current value.)

To assure your eligibility for moving payments you must advise the airport at least 5 working days prior to commencing your move. The airport is required to monitor your move and verify cost claimed represent actual, necessary, and reasonable costs incurred on your move. Attached is a moving cost claim form for your use in claiming your eligible moving costs reimbursement. The airport requires adequate documentation of all cost incurred which you will want to claim for reimbursement. Your Airport Relocation Representative, who has previously worked with you to secure needed inventory and moving cost bids, may be contacted throughout the moving process to

assist your move and assure you have sufficient cost documentation to support your claims for eligible relocation payments.

At this time it is necessary to advise you that you will have at least 90 days to remain on your property. At a later date, and after the Airport Authority has acquired the property, you will be provided a 30 day notice citing a specific date for you to vacate the acquired property. (AS APPLICABLE FOR TENANTS) However, please be advised that prior to the Airport Authority acquisition of your leased property you remain obligated to your present lease for payment of rent and other terms and conditions of your lease. Please do not hesitate to contact NAME should you have any questions or concerns regarding your relocation.

Airport Manager

CHAPTER 5. PAYMENTS FOR MOVING AND RELATED EXPENSES

5.1 Requirements.

5.1.1 Eligibility.

Any owner-occupant or tenant who qualifies as a "displaced person" and moves from a dwelling (including a mobile home), or from a business, farm, or non-profit organization, is entitled to payment of his/her actual moving and related expenses, as the sponsor determines to be reasonable and necessary.

5.1.2 Ineligible Moving and Related Expenses.

A displaced person is not entitled to payment for the following expenses:

1. The cost of moving any structure or other real property improvement in which the displaced person reserved ownership
    a. This requirement does not preclude replacement housing payment eligibility for a displaced homeowner who chooses to retain and move the acquired dwelling as their replacement dwelling, if the sponsor determines this to be feasible (see Section 5.2.3).
2. Interest on a loan to cover moving expenses
3. Loss of good will
4. Loss of profits
5. Loss of trained employees
6. Any additional operating expenses of a business or farm operation incurred because of operating in a new location, except as an eligible reestablishment expense (see Section 5.3.11)
7. Personal injury
8. Any legal fee or other cost for preparation of relocation payment claims or for representation of the claimant before the sponsor
9. Expenses for searching for a replacement dwelling
10. Physical changes to the real property at the replacement location of a business or farm operation except as an eligible reestablishment expense (see Section 5.3.11)
11. Costs for storage of personal property on real property already owned or leased by the displaced person
12. Refundable security and utility deposits

5.1.3 Moving Claims and Payments.

5.1.3.1 A displaced person may claim moving expenses within 18 months following the move-out date or the date of final acquisition payment, whichever occurs later. Claims must be supported by documentation of

actual costs (e.g., bids, paid invoices, certified inventories of moved personal property, other evidence of actual and reasonable costs). FAA Forms 5100-124 & 5100-125 provide acceptable claim forms (see Appendix A).

5.1.3.2 The sponsor must promptly pay acceptable claims and provide displaced persons any technical assistance necessary to claim all eligible actual, reasonable, and necessary moving expenses. The sponsor will not pay a moving claim until all personal property is removed from the acquired property. Under unusual hardship, a partial moving payment may be advanced to assist a displaced person to initiate a move. In accordance with sponsor appeal procedures, a displaced person may appeal moving claims denied by the sponsor, as described at Section 1.3.3.

5.2 **Residential Moving Payments.**

5.2.1 Eligible Moving Expenses for Displaced Residential Occupants.

A displaced person is entitled to payment for the following expenses:

1. Transportation of the displaced person and personal property for a distance of 50 miles or less, unless the sponsor determines that transportation over 50 miles is justified
2. Packing, crating, unpacking, and uncrating of the personal property
3. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property
4. Storage of personal property for a period of l2 months or less, unless the sponsor determines that a longer period is necessary
5. Insurance for the replacement value of the property in connection with the move and necessary storage
6. The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his/her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available
7. Other moving-related expenses that are not listed as ineligible under 5.1.2, as the sponsor determines to be reasonable and necessary

5.2.2 Moving Expense Payment Options.

A displaced person's actual, reasonable, and necessary expenses for moving personal property from a dwelling may be determined by different methods depending upon the type of move:

5.2.2.1 **Self-move.**

A self-move may be performed by the displaced person in one or a combination of the following methods:

1. *Fixed residential moving cost schedule:* Any person displaced from a dwelling or a seasonal residence or a dormitory style room is entitled to receive a fixed moving cost payment as an alternative to a payment for actual moving and related expenses. This payment must be determined according to the most recent edition of the Fixed Residential Moving Cost Schedule (approved by the FHWA and published in the Federal Register on a periodic basis).[10] Payment to a person with minimal personal possessions who is in occupancy of a dormitory style room, or a person whose residential move is performed at no cost to the person, must be limited to the amount stated in the Fixed Residential Moving Cost Schedule.
2. *Actual cost household move:* The actual costs of a move are eligible for repayment if supported by receipts for labor and equipment. Hourly labor rates and equipment rental fees should not exceed the cost paid by a commercial mover.
3. *Move cost agreement:* In some cases where a displaced homeowner has significant non-household personal property located on the acquired residence the fixed schedule or commercial move options may not be feasible. For example, such items as numerous automobiles, large lots of automotive parts, extensive machinery and equipment, or an extensive collection (antiques, memorabilia, etc.) may require special handling that a commercial move cost may exceed the value of items to be moved. For such moves, the sponsor and displaced person may enter into a move cost agreement prior to initiating the move to establish the limits on cost eligibility for reimbursement. The agreement amount would reflect the moving costs anticipated and require actual cost receipts for reimbursement of the needed truck and equipment rental and packing material purchases. The agreement should cite the date the property will be cleared and provide that failing to complete all or any part of the move precludes payment for the work not performed. The payment for accepted work prescribed in the self-move agreement may be claimed in addition to the commercial or fixed schedule expense of moving household items.

5.2.2.2 **Commercial move.**

A professional moving service may be used on behalf of the displaced person if it follows certain guidelines, as follows:

1. The sponsor may estimate the eligible cost based on the lower of two acceptable bids, or estimates, prepared for the move.

[10] FHWA, "Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended": http://www.fhwa.dot.gov/real_estate/practitioners/uniform_act/relocation/moving_cost_schedule.cfm.

2. The payment claim must be supported by an inventory of items of personal property actually moved, and invoices of the actual costs incurred.
3. The moving cost bid and invoice must be of sufficient detail to assure that all eligible moving expenses are claimed.
4. Payment for a low-cost or uncomplicated move may be based on a single bid or estimate. If the move is complex, the sponsor should develop the move specifications and two bids or estimates must be secured.
5. The displaced person may obtain one or more move estimates and present them to the sponsor for review as to the reasonableness of the estimated cost. Alternatively, for complex or high-cost moves, the sponsor may secure the move cost bid to base the offer of relocation eligibility to the displaced homeowner.

5.2.3 Moving a Mobile Home.

The following conditions apply for moves of mobile homes depending on a displaced person's ownership and occupancy relationship with regard to the property, as described below:

5.2.3.1 **Owner-occupants.**

Eligible expenses for moving personal property from an acquired mobile home or mobile home site include those actual, reasonable, and necessary expenses (described in Section 5.2.1). In addition, the owner-occupant of a mobile home that is moved as personal property and used as the person's replacement dwelling is also eligible for the following moving expenses:

1. The reasonable cost of disassembling, moving, and reassembling any appurtenances attached to a mobile home (e.g., porches, decks, skirting, awnings), which were not acquired, anchoring the unit, and utility "hook-up" charges
2. The reasonable cost of repairs and/or modifications so that a mobile home can be moved, and/or improved to meet DSS standards
3. The cost of a non-refundable mobile home park entrance fee, to the extent that it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or the sponsor determines that payment of the fee is necessary to effect relocation

5.2.3.2 **Non-occupant owner of a rented mobile home.**

A non-occupant owner of a mobile home that is not acquired as real estate (personal property) is eligible for actual expenses (described in Section 5.2.1) to move the mobile home and to move personal property from an acquired mobile home site.

5.2.3.3 **Personal property mobile home not relocated:** If the mobile home is personal property, but the sponsor determines the owner-occupant is displaced and eligible for a replacement housing payment (see Chapter 6), the owner is not eligible for payment for moving the mobile home but may be eligible for a payment for moving personal property from the mobile home.

5.3 Non-Residential Moving Payments.

5.3.1 Eligible Moving Expenses for Displaced Businesses, Farms, or Non-Profit Organizations.

Eligible expenses for non-residential moves include the following:

1. Transportation of the displaced person and personal property for a distance of 50 miles or less, unless the sponsor determines that transportation over 50 miles is justified
2. Packing, crating, unpacking, and uncrating of the personal property
3. Disconnecting, dismantling, removing, reassembling, and reinstalling relocated appliances, business machinery, equipment, and other personal property; including substitute personal property, as applicable; including connection to utilities available within the building, modifications to personal property; including modifications in adherence with mandates by federal, state or local law, code or ordinance, necessary to adapt to replacement structure, the replacement site, or the utilities at the replacement site; and including modifications necessary to adapt the utilities at the replacement site to the personal property
4. Storage of the personal property for a period of 12 months or less, unless the sponsor determines that a longer period is necessary
5. Insurance for the replacement value of the property in connection with the move and necessary storage
6. The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his/her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available
7. Other moving related expenses not listed as ineligible under Section 5.1.2, as the sponsor determines to be reasonable and necessary
8. Any license, permit, fees or certification required of the displaced person at the replacement location; payment may be based on the remaining useful life of the existing license, permit, fees, or certification
9. Professional services determines by the sponsor as actual, reasonable and necessary for the following:
    a. Planning the move of the personal property
    b. Moving the personal property

c. Installing the relocated personal property at the replacement location

10. Re-lettering signs and replacing stationery that is existing and usable at the time of displacement but made obsolete as a result of the move

5.3.2 Moving Expense Payment Options.

Eligible expenses for moves from a business, farm, or non-profit organization include those expenses described Section 5.3.1. Personal property, as determined by an inventory from a business, farm, or non-profit organization, may be moved by one or a combination of the following methods:

5.3.2.1 **Commercial move.**

Eligible moving expenses for professional moving service are based on the lower of two bids or estimates prepared by a commercial mover. At the sponsor's discretion, payment for a low-cost or uncomplicated move may be based on a single bid or estimate. The general procedure to be used when using a commercial mover is as follows:

1. The sponsor should inspect the displacement and replacement sites and generally determine the extent of personal property to be moved, loading, and unloading requirements, and what disconnect/reconnect work will required. This inspection should be done in company with the displaced person or his/her agent in order to coordinate the move with the business requirements of the displaced operation. If the move is expected to be complicated or complex, the sponsor may prefer to contract with a specialist in the type of personal property being moved. The sponsor should accommodate the business concerns and needs as much as practical to minimize the impact of the relocation on the business operation.

2. Upon establishing the general eligible move requirements with the displaced person, the sponsor should arrange with qualified commercial moving companies to provide firm bids or estimates of the cost to move the personal property of the displaced business. If possible, at least two firm bids or estimates should be obtained, based on an inventory of the personal property expected to be moved and on work specifications and equipment required to load/unload, place at the replacement site, and disconnect/reconnect personal property. The sponsor should provide these move requirements to all bidding movers at the inspection of the displacement and replacement sites to assure that the bids received are comparable. The bids submitted must reference, in detail, the inventory, and moving specifications. If there is a significant amount of plumbing, electrical, carpentry, communications, computer, or other services involved in the disconnect and reconnection of personal property, it may be more cost-effective to obtain these services through separate bids arranged independent of the commercial mover.

3. Upon completion of the move, in the claim submitted for payment, the owner of the displaced business must certify that the items listed were actually relocated. The amount claimed and paid by the sponsor must only reflect the inventory actually moved. Items that a displaced business, farm or non-profit organization owner or operator elects not to relocate may be claimed under Actual Direct Loss of Personal Property (see Section 5.3.5), Purchase of Substitute Property (see Section 5.3.6), Low Value/High Bulk (see Section 5.3.7) or Related Non-Residential Eligible Expenses (see Section 5.3.9), as may be applicable.

5.3.2.2 **Self-move option.**

A self-move payment may be based on one or a combination of the following methods:

1. *Negotiated self-move (estimated cost)*: If the displaced person elects to take full responsibility for the move of the business, farm operation, or non-profit organization, the sponsor may make a payment for the person's moving expense in an amount not to exceed the lower of two acceptable bids or estimates obtained by the sponsor. The same general procedure to secure the two bids is followed as described above in Section 5.2.2(b). Moving costs are then claimed and paid as follows:

    a. Upon satisfactory completion of the move, the displaced person may claim payment for actual reasonable moving expenses, not to exceed the lower of two acceptable firm bids or estimates. When circumstances warrant, the sponsor may also negotiate an amount less than the lower of two acceptable bids or estimates. If not included in the bid amount secured, a displaced person may claim other removal and reinstallation expenses as actual costs upon submitting actual cost invoices or other adequate evidence of actual cost. The sponsor may accept the actual costs that are determined reasonable expenses for the move.

    b. At the sponsor's discretion, payment for a low-cost or uncomplicated move may be based on a single bid or estimate (citing acceptable move specifications as described above) obtained by the sponsor or prepared by qualified staff. For this type of move, additional documentation (e.g., receipts of moving expenditures) is unnecessary as long as the payment is limited to the amount of the lowest acceptable supported bid or estimate.

    c. Upon completion of the move, the owner/operator of the displaced business must certify that the items listed were actually relocated in the claim submitted for payment. The amount claimed and paid by the sponsor must only reflect the inventory actually moved. Those items that a displaced business, farm, or non-profit organization owner/operator elects not relocate may be claimed

under Actual Direct Loss of Personal Property (see Section 5.3.5), Purchase of Substitute Property (see Section 5.3.6), Low Value/High Bulk (see Section 5.3.7) or Related Non-Residential Eligible Expenses (see Section 5.3.9), as may be applicable.

2. *Self-move, actual reasonable cost:* If reliable bids or estimates cannot be obtained, or if circumstances (e.g., large fluctuations in inventory) prevent reasonable bidding in the opinion of the sponsor, the displaced business may be paid for actual reasonable moving costs when the costs are supported by receipts or other evidence of actual expenses incurred. The allowable expenses of a self-move under this provision may include the following:

   a. Amounts paid for truck and/or equipment hired

   b. If vehicles or equipment owned by a business being moved are used, a reasonable amount to cover gas and oil, the cost of insurance, and depreciation allocable to hours and/or days the equipment is used for the move

   c. Wages paid for the labor of persons who physically participate in the move. Labor costs should be computed based on actual hours worked at the hourly rate paid, which should not exceed the rate paid by local commercial movers or contractors.

   d. Amount of wages spent in actual supervision of the move if the displaced business proposes to use a working foreman or group leaders, regularly employed by the business.

   e. The inventory of items actually moved, as certified by the owner/operator of the displaced business in the claim submitted for payment. Items that are not relocated may be claimed under Actual Direct Loss of Personal Property (see Section 5.3.5), Purchase of Substitute Property (see Section 5.3.6), Low Value/High Bulk (see Section 5.3.7) or Related Non-Residential Eligible Expenses (see Section 5.3.9).

5.3.3 Personal Property Only Moves.

Eligible moving expenses for a person who is required to move personal property from real property but is not required to move from their dwelling (including a mobile home), business, farm, or non-profit organization include moving expenses described in Section 5.3.2. On a personal property only move, the displaced person is not eligible for the other payments described in Sections 5.3.5 – 5.3.12 (i.e., Actual Direct Loss of Personal Property, Purchase of Substitute Property, Low Value/High Bulk, Related Non-Residential Eligible Expenses, Search Expense, Reestablishment Expense, or a Fixed Moving Payment).

5.3.4 Notification and Inspection.

At or promptly after the initiation of negotiations, the sponsor must inform the displaced person, in writing, of payment eligibility requirements for a non-residential move. This

information may be included in the notice of relocation eligibility (see Chapter 4). To be eligible for moving expense payments, the displaced person must satisfy the following requirements:

1. Provide the sponsor advance notice of move dates and inventory of the items to be moved, unless the sponsor waives this requirement and documents the file accordingly.
2. Permit the sponsor to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

5.3.5 Actual Direct Loss of Tangible Personal Property.

On a non-residential move, an eligible displaced person may decide not to move an item or items of personal property and instead claim payment for the actual direct loss of the item. This payment will consist of the lesser of the following values:

1. The market value of the item in its existing condition for continued use, less the proceeds from its sale
    a. To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the sponsor decides that is unnecessary.
    b. When claiming payment for direct loss of goods held for sale, the market value is based on the actual cost of the goods to the business, not potential sale prices.
2. The estimated cost of moving the item, including reconnection cost, based only on the actual installation of the item in its existing condition at the displacement site, and not including any allowance for storage
    a. The payment amount will not include any cost for reconnecting a piece of equipment that is in storage or not in use at the acquired property at the time of acquisition.
    b. If the business or farm operation is discontinued, the estimated cost of moving the item will be based on a moving distance of 50 miles.
3. The reasonable cost incurred in attempting to sell an item that will not be relocated
4. The payment amount for direct loss of an advertising sign that is personal property, which must be the lower value of the following:
    a. the depreciated cost to reproduce the sign (as determined by the sponsor), minus the proceeds from its sale
    b. the estimated cost to move the sign, without allowance for storage

5.3.6 Purchase of Substitute Personal Property.

If an item of personal property that is used as part of a business or farm operation (i.e. machinery and equipment) is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of the following values:

1. The cost of the substitute item, including installation costs of the replacement site, less any proceeds from sale or trade of the replaced item

2. The estimated cost of moving and reinstalling the replaced item, without allowance for storage, which may be based on a single bid or estimate for a low-cost or uncomplicated move at the sponsor's discretion
3. The reasonable cost incurred in attempting to sell an item that will not be relocated

5.3.7 Low-Value/High-Bulk Property.

When the personal property to be moved is of low value and high bulk (e.g., stockpiled sand, gravel, minerals, metals) and the cost of moving the property would be disproportionate to its value in the judgment of the sponsor, the allowable moving cost payment must not exceed the lesser of the following values:

1. The amount that would be received if the property were sold at the site
2. The replacement cost of the product, in a comparable quantity, delivered to the new business location

5.3.8 Transfer Ownership of Personal Property Not Moved.

Upon request, and in accordance with applicable law, the displaced person must transfer to sponsor ownership any personal property that has not been moved, sold, or traded.

5.3.9 Related Non-Residential Eligible Expenses.

The following expenses, in addition to those provided above for moving personal property, must be provided if the sponsor determines that they are actual, reasonable, and necessary:

1. Connection to available nearby utilities from the right-of-way to improvements at the replacement site
2. Professional services performed prior to the purchase or lease of a replacement site in order to determine its suitability for the displaced person's business operation (including but not limited to soil testing, feasibility and marketing studies), excluding any fees or commissions directly related to the purchase or lease of the site
3. Impact fees or one-time assessments for anticipated heavy utility usage, as determined necessary by the sponsor

5.3.10 Searching for a Replacement Location.

A business or farm operation is entitled to reimbursement for actual expenses as the sponsor determines to be reasonable, which are incurred in searching for a replacement location, not to exceed $2,500, including the following:

1. Transportation
2. Meals and lodging away from home
3. Cost of time spent while searching, based on reasonable wages and salary
4. Fees paid to a real estate agent or broker to locate a replacement site, excluding fees or commissions related to the actual purchase of such sites

5. Cost of time spent to obtain permits and attending zoning hearings, based on reasonable wages and salary
6. Cost of time spent negotiating the purchase of a replacement site, based on reasonable wages and salary

5.3.11 Reestablishment Expenses – Non-Residential Moves.

In addition to eligible moving expense payments, a displaced business, farm, or non-profit organization is entitled to receive payment, not to exceed $25,000, for expenses actually incurred for relocation and reestablishment at a replacement site. Eligible and ineligible expenses are as follows:

5.3.11.1 **Eligible expenses.**

Reestablishment expenses must be reasonable and necessary, as determined by the sponsor, including but not limited to the following:

1. Repairs or improvements to the replacement real property as required by federal, state or local law, code, or ordinance
2. Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting operations
3. Construction and installation costs for exterior advertising signs
4. Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting
5. Publication of advertisements of replacement location (e.g., internet or newspaper classified ads)
6. Estimated increased costs of operation during the first two (2) years at the replacement site for items such as the following:
    a. Lease or rental charges
    b. Personal or real property taxes
    c. Insurance premiums
    d. Utility charges (excluding impact fees)
7. Any other items that the sponsor considers essential to reestablishment of the business

5.3.11.2 **Ineligible expenses.**

The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

1. Purchase of capital assets (e.g., office furniture, filing cabinets, machinery, trade fixtures)

2. Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of business operations
3. Interest on money borrowed to make the move or purchase the replacement property
4. Payment to a part-time, in-home business that does not contribute materially to the household income (see definition in Appendix B)

5.3.12 Fixed Payment for Moving Expenses – Non-Residential Moves.

5.3.12.1 **Business.**

A displaced business may be eligible to choose a fixed payment in lieu of payments for actual moving and related expenses, and actual reasonable reestablishment expenses.[11] Except for payment to a non-profit organization, this fixed payment must equal the average annual net earnings of the business, as computed in accordance with Section 5.3.12(d) below, but not less than $1,000 nor more than $40,000. The displaced business is eligible for the payment if the sponsor determines that it meets the following criteria:

1. The business vacates or relocates from its displacement site but owns or rents personal property that must be relocated due to the displacement, for which the business would incur moving expenses.
2. The sponsor determines that the business cannot be relocated without a substantial loss of its existing clientele or net earnings, which is assumed as true unless the sponsor demonstrates otherwise.
3. The business is not part of a commercial enterprise with more than three other entities that are not being acquired by the sponsor, and which are under the same ownership and engaged in the same or similar business activities.
4. The business is not operated at the displacement site for the sole purpose of renting the site to others.
5. The business contributed materially to the income of the displaced person during the two (2) taxable years prior to displacement.

5.3.12.2 **Number of businesses.**

In determining whether two or more displaced legal entities constitute a single business that is entitled to only one fixed payment, the sponsor must consider all pertinent factors, including the validity of the following conditions:

1. The entities share the same business premises and equipment.

[11] 49 CFR 24.301, 24.303, 24.304.

2. Business functions are identical or interrelated, and operations and finances are comingled.
3. The entities are promoted by the business, and perceived by its customary clientele, as a single business.
4. The same individual(s) or closely relations own, control, or manage the affairs of all entities.

5.3.12.3 **Farm operation.**

A displaced farm operation may choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses. This fixed payment must equal the average annual net earnings of the farm operation, as computed in accordance with Section 5.3.12(d) below, but not less than $1,000 nor more than $40,000. For partial acquisitions of land used as part of a farm operation, the fixed payment will be made only if the sponsor determines the validity one or both of the following conditions:

1. The partial acquisition caused displacement of the farm operator from operations on the remaining land that is not part of the acquisition.
2. The partial acquisition caused a substantial change in the nature of the remaining farm operation (e.g., location of critical equipment or facilities on the acquired land that cannot be easily relocated).

5.3.12.4 **Average annual net earnings of a business or farm operation.**

The average annual net earnings of a business or farm operation must be one-half (1/2) of its net earnings before federal, state, and local income taxes during the two (2) taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full two (2) taxable years prior to displacement, net earnings must be based on the actual period of operation at the displacement site during the two (2) taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different time period when the sponsor determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person must furnish the sponsor proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence determined satisfactory by the sponsor.

5.3.12.5 **Non-profit organization.**

A displaced non-profit organization may choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses. This fixed payment must equal the average annual net earnings of the farm operation, but not less than $1,000 nor more than $40,000. The displaced organization is eligible for the

payment if the sponsor determines that it cannot be relocated without a substantial loss of its existing membership or clientele, which is assumed as true unless the sponsor demonstrates otherwise. Any payment in excess of $1,000 must be supported with financial statements for the two (2) 12-month periods prior to the acquisition. The payment amount must be the average of two (2) years annual gross revenues, minus administrative expenses.

CHAPTER 6. REPLACEMENT HOUSING PAYMENTS

6.1 Requirements.

6.1.1 Sponsor Obligation.

No person to be displaced must be required to move from his or her dwelling unless at least one comparable replacement dwelling (see Section 6.1.2) has been made available to the person. Where possible, three or more comparable replacement dwellings must be made available. A comparable replacement dwelling will be considered to have been made available to a person if all of the following conditions have been met:

1. The person is informed of its location; and
2. The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and
3. Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled, in sufficient time to complete the purchase or lease of the property.

6.1.2 Comparable Replacement Dwelling.

The term comparable replacement dwelling means a dwelling that is as follows:

1. Decent, safe and sanitary (DSS) [see Section 6.1.3]
2. Functionally equivalent to the displacement dwelling
    a. The term “functionally equivalent” means that it performs the same function and provides the same utility. While a comparable replacement dwelling does not need to possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the sponsor may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling.
3. Adequate in size to accommodate the occupants
4. In a location that is not subject to unreasonably adverse environmental conditions
5. In a location that is not generally less desirable than the location of the displaced person’s dwelling with respect to public utilities and commercial and public facilities, and that is reasonably accessible to the person’s place of employment
6. On a site that is typical in size for residential development with normal site improvements, including customary landscaping (although it does not need to include special improvements such as outbuildings, swimming pools, or greenhouses)
7. Currently available to the displaced person on the private market (except as provided in Section 6.1.2.i. below)

8. Within the financial means of the displaced person:

    a. A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 90 days prior to initiation of negotiations (90-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential, all increased mortgage interest costs, and all incidental expenses (see Section 6.2.7), plus any additional amount required to be paid under replacement housing of last resort (see Section 6.5).

    b. A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance (see Section 6.3.2), the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling, (see Section 6.3.2.b).

    c. For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if a sponsor pays that portion of the monthly housing costs of a replacement dwelling that exceeds the person's base monthly rent for the displacement dwelling (see Section 6.3.2.b). Such rental assistance must be paid under replacement housing of last resort.

9. For a person receiving government housing assistance before displacement, a dwelling that may reflect similar government housing assistance, including application of that program's requirements related to the size of the replacement dwelling

6.1.3 Decent, Safe, and Sanitary Housing Inspection.

The term "Decent, Safe, and Sanitary," or DSS, means that a dwelling meets applicable housing and occupancy codes. However, any of the following standards that are not met by an applicable code must apply unless waived by the FAA for good cause:

1. Must be structurally sound, weather tight, and in good repair
2. Must contain a safe electrical wiring system adequate for lighting and other devices
3. Must contain a heating system capable of sustaining a healthful temperature (of approximately 22 degrees C or 70 degrees F) for a displaced person, except in locations where local climatic conditions do not require such a system
4. Must be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced persons
5. Must have a separate, well-lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and toilet, all in good working order, and properly connected to appropriate sources of water and a sewage drainage system
6. In the case of housekeeping dwellings, must have a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage

drainage system, and adequate space and utility service connections for a stove and refrigerator

7. Must contain unobstructed egress to safe, open space at ground level.
    a. If the replacement dwelling unit is on the second story or above, with access directly from or through a common corridor, the common corridor must have at least two means of egress.
8. For a displaced person who is handicapped, must be free of any barriers that would preclude reasonable ingress, egress, or use of the dwelling.
    a. If comparable replacement properties available are not barrier-free, adequate to the needs of the displaced persons, then the sponsor must add amounts necessary to provide a barrier-free dwelling.

6.1.4 Occupancy Requirements for Displacement or Replacement Dwelling.

No person must be denied eligibility for a replacement housing payment solely because he or she is unable to meet the regulatory occupancy requirements (see Sections 6.2.1 and 6.3.1) for a reason beyond his or her control, including the following:

1. A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, the Federal Agency funding the project, or the displacing Agency; or
2. Another reason, such as a delay in the construction of the replacement dwelling, military duty, or hospital stay, as determined acceptable by the sponsor.

6.2 **90-Day Owner-Occupants.**

6.2.1 Payment Eligibility.

A displaced owner-occupant is eligible for a replacement housing payment if the displaced person satisfies both of the following conditions:

1. Has actually owned and occupied the displacement dwelling for no less than 90 days immediately prior to the initiation of negotiations or the issuance of a written notice of intent to acquire the property; and
2. Purchases and occupies a DSS replacement dwelling within one year after the later of the following dates (unless extended by the sponsor for good cause):
    a. The date the displaced person receives final payment for the displacement dwelling
    b. In the case of condemnation, the date the full amount of the estimate of just compensation is deposited in court (filing date)
    c. The date the sponsor has made available to the displaced person at least one comparable replacement dwelling (see Sections 4.3.5 and 6.1.1)

6.2.2 Replacement Housing Payment.

The replacement housing payment for an eligible 90-day owner-occupant may not exceed $31,000 except when under housing of last resort procedures. The payment is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the later of either (1) the date that the displaced owner-occupant is paid for the displacement dwelling, or (2) the date that a comparable replacement dwelling is made available to such person. The payment must be the sum of the following:

1. A price differential payment, if the eligible cost of the replacement dwelling exceeds the acquisition cost of the displacement dwelling (see Section 6.2.3); and
2. A mortgage interest differential payment for the increased interest costs and other debt service costs that are incurred in connection with the purchase of the replacement dwelling (see Section 6.2.6); and
3. Payment for the reasonable expenses incidental to the purchase of the replacement dwelling (see Section 6.2.7).

6.2.3 Price Differential Payment.

The price differential payment is the amount, if any, which must be added to the acquisition cost of the displacement dwelling in order to provide a total amount that is equal to the lesser of either (1) the reasonable cost of a comparable replacement dwelling, or (2) the purchase price of a DSS dwelling that is actually purchased and occupied by the displaced person.

6.2.3.1 **Comparable replacement dwellings.**

Comparable replacement properties must be selected from current listings of properties available for sale. If available, at least three comparable replacement dwellings must be examined and the payment must be calculated based on which dwelling is most nearly representative of, and equal to or better than, the displacement dwelling. Listed properties sold under a pending sales contract may not be used in determining the price differential. All sources of listing information available should be pursued, including Multiple Listing Services (MLS), local broker exclusive listings, and owner listings. An obviously overpriced listed dwelling should be ignored. To the extent feasible, comparable replacement dwellings must be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible at reasonable cost, in nearby comparable neighborhoods. However, particularly on buy-out acquisitions for Part 150 noise compatibility programs, dwellings chosen as comparable referrals should not be located within the airport's DNL 65 dB noise contour.

6.2.3.2 **Selected comparable replacement dwelling.**

Of the comparable listings searched, the property judged the most "comparable" (see Section 6.1.2) must be used as the "selected" comparable replacement dwelling in order to calculate the replacement

housing payment eligibility for the displaced person. The sponsor must fully and systematically search the available replacement properties and select the most comparable dwelling. Table 6-1 provides a format for comparing the features of available replacement property to the comparability requirements of the acquired dwelling to determine the "selected" comparable replacement dwelling.

Table 6-1. Comparable Dwelling Evaluation Grid

Comparison Item	Subject Property	Comparable 1	Comparable 2	Comparable 3	Comparable 4
Habitable Living Area (sq. ft.)					
# Rooms					
# Bedrooms					
# Baths					
Location: Neighborhood, Access to Employment					
Lot Size					
Style/Construction					
Age					
Quality					
Condition					
Sewer/Water					
Heat/Fuel					
AC					
Flooring					
Fireplace					
Basement					
Storage					
Deck/Patio					
Garage/Car Port					
Appliances					
Other					
List Price					

Selected Comparable Determination: Applying the selection criteria contained in the definition of "comparable replacement" dwelling [49 CFR 24.2(c)], Comparable [#] is selected as the most comparable to the acquired property, including the decent, safe, and sanitary (DSS) requirements for the displaced persons.

6.2.3.3 **Documentation and certification.**

Figure 6-1 provides a sample form for determining Replacement Housing Payment (RHP) eligibility for a 90-Day Owner-Occupant. The sponsor should use this form to document the adequacy of the replacement housing payment eligibility determination. To the extent provided in this AC and, in conformance with Uniform Act mandates, the sponsor must consider reasonable costs and program economy in the determination of replacement housing payment eligibility.

Figure 6-1. RHP Eligibility Determination Form – 90-Day Owner-Occupant

U.S. Department of Transportation
Federal Aviation Administration

(SAMPLE) **Replacement Housing Payment Eligibility Determination**
90-Day Owner Occupant
Summary and Justification of Selection of "Most" Comparable Property
(49 CFR 24.401)

Displaced person:	**# in Household:**	
Project:	**AIP #:**	**Parcel:**
Displacement dwelling DSS? ☐ **Yes** ☐ **No**		

I. Market data source: (check all that apply):
☐ MLS ☐ Projected data ☐ Newspaper/Published ☐ Realtors ☐ Private listings
☐ Other: Listings current to:

II. Justification for Selection of Comparable (#) as the "Most" comparable replacement property available.
(Note: The following grid will supplement file documentation to provide justification to support the sponsor's selection of the comparable dwelling judged to be the most comparable of those identified. File documentation must also be maintained on the other comparable properties evaluated.)

Comparable Criteria (49 CFR 24.2(d))	**Comparison of the Selected Comparable to the Acquired Dwelling/Displacee Needs** (Equal, Better, or Worse)	**Explanation** (If inferior, relate to compensating trade-off. If significantly superior provide justification, i.e. DSS need, compensates inferior feature at reasonable cost, no lesser cost alternative acceptable.)
1. Location (neighborhood, access to employment, community services, etc.)	☐ Equal ☐ Better (Must be equal or better*)	
2. Number of Rooms (total/bedrooms/baths)	☐ Equal ☐ Better ☐ Worse	
3. Size of Habitable living Area (sq. ft. measured interior, excluding halls, bathrooms, and closets)	☐ Equal ☐ Better ☐ Worse	
4. Condition	☐ Equal ☐ Better (Must be equal or better*)	
5. Age	☐ Equal ☐ Better ☐ Worse	
6. Style/Floor Plan	☐ Equal ☐ Better ☐ Worse	
7. Quality of Construction (market perception)	☐ Equal ☐ Better ☐ Worse	
8. Other Amenities (standard features such as fireplace, upgrade carpets or cabinetry, workshop, extra storage space used; and typically available on the market. Trade-off consideration is common where feature is not available at reasonable cost on available properties.)	☐ Equal ☐ Better ☐ Worse	
9. Other features	☐ Equal ☐ Better ☐ Worse	
10. Major Exterior Attributes (Site attributes such as swimming pool, excess land, major outbuildings, etc.)	☐ Equal ☐ Better ☐ Worse ☐ N/A*	*Attribute considered only if available at reasonable cost on comparable properties. Otherwise comparable without the attribute is used and a "carve-out" procedure is used to calculate payment eligibility. (49 CFR 24.403(a)(2))

FAA form 5100-RHP-90 (7/17) SUPERSEDES PREVIOUS EDITION Page 1 of 2

Figure 6-1 (cont.) RHP Eligibility Determination Form – 90-Day Owner-Occupant

III. Access for Disabled Displaced Persons:

Cost estimate: **$** (contractor bids attached)

☐ N/A Items required:

IV. Summary of Housing Availability

(Note: All available properties considered must be indicated below. File documentation must evidence that adequate consideration was given lesser cost properties in order to evidence program economy had been secured in the search process. Listing inventories are to be retained in project records identifying the properties considered in selecting the most comparable property for payment calculation.)

Total available listed properties identified as comparable:

Price range of identified properties:

From $ (address/listing#:)

To $ (address/listing#:)

Selected comparable listed/adjusted price at $, represents (#) replacement housing opportunities currently available to the displaced person at reasonable cost.

(Note: If less than 3 are currently available, the availability of the comparable properties must be verified prior to requiring vacation of the acquired dwelling. If the selected property is unavailable at displacement, recalculation of the payment eligibility will be required.).

Comments:

V. Replacement Housing Payment (RHP) Eligibility Calculation

Selected comparable property list price (adjusted, above)	
Less acquisition cost of displacement dwelling:	
Less, as necessary, the carve-out of the acquisition cost of major exterior attributes	
Replacement Housing Payment Eligibility:	$ 0.00
Plus estimated cost to make property accessible for disabled displaced persons (above):	
Equals total RHP:	$ 0.00

(Note: Displacee must be advised that actual payment for necessary modifications will be the lesser of the estimated cost or the actual reasonable cost of installation. A replacement housing payment may only be made following DSS certification and verification that required modifications are in place. The installation of modifications necessary should be included in the sales contract to facilitate timely payment.)

VI. Certification: Relying on the above referenced market information and analysis of the comparable replacement housing requirements for the displacement property and the displaced persons, comparable (#) is selected as the most comparable property available at reasonable cost. This property is to be offered as the available replacement housing for the subject displaced persons with an anticipated displacement from the acquired property to occur by . As of the date of this determination, this property is available and is considered to be decent, safe, and sanitary for purposes of providing replacement housing to the subject displacee. The offer of the selected property requires a replacement housing payment eligibility as calculated above in the amount of $. The undersigned has made (approved of) the required determinations and calculation of the replacement housing payment eligibility in accordance with applicable regulations and approved procedures conforming to the requirements of the Uniform Act (49 CFR 24 Subpart C &D) and FAA directives.

Signed: _____ **Title:** **Date:**

Prepared by: **Title:** **Date:**

6.2.4 Special Situations Affecting Calculation of Price Differential Payment Eligibility.

Various situations typically arise that will affect the calculated and actual amount of the price differential that a displaced person is eligible to receive. These situations generally result in a carve-out procedure or an adjustment of some type, as described for the following occurrences.

6.2.4.1 **Administrative settlement.**

An administrative settlement is any settlement made by the sponsor for acquisition of real property that exceeds an approved amount offered as just compensation. By normal calculation of the price differential, the replacement housing payment eligibility is reduced by the amount of the increase in the acquisition cost incurred by the administrative settlement.

6.2.4.2 **Condemnation award.**

An advance replacement housing payment may be calculated and paid to a property owner when the final settlement amount will be delayed pending the outcome of condemnation proceedings. Payment of such amount may only be made with the owner-occupant's agreement that, upon final determination of the condemnation proceedings, the replacement housing payment will be recalculated using the acquisition price that is determined by the court and that the displaced person will refund the amount of any excess to the sponsor.

6.2.4.3 **Carve-outs.**

A carve-out procedure must be made when the acquired property has certain attributes, as discussed below, which are not available at reasonable cost on otherwise comparable available dwellings, or the acquired dwelling is part of a mixed-use property.

6.2.4.3.1 Site attributes and improvements.

1. If the selected comparable replacement property does not contain a site improvement found on the displacement property, the contributory value of the improvement (e.g., garage, out-building, swimming pool) must be deducted (i.e., "carved out") from the cost of the acquired dwelling in calculating the replacement housing price differential eligibility. A carve-out is only necessary if the particular site improvement represents a significant value, as indicated in the appraisal of the acquired property. The appraisal of the acquired property should not arbitrarily assign a contributory value for site improvements that are highly depreciated and/or which the market considers only of nominal value.
2. Where a site attribute consists of a land or location feature, such as a waterfront location or golf course frontage, which is unavailable with a comparable available dwelling at reasonable cost, the contributing market value of the attribute may also be carved-out from the

acquisition cost of the property in determining the replacement housing payment eligibility. A carve-out is only necessary to the extent of the contributory value that may be derived for the attribute from the approved appraisal of the acquired property.

6.2.4.3.2 Tracts larger than typical residential size.

When the acquired tract is significantly larger than the typical residential home site lot available on comparable replacement properties, the sponsor must carve out the value of the dwelling and typical home site lot for the area from the total acquisition price and use this value as the acquisition cost to calculate the price differential eligibility. However, if comparable properties are available at reasonable cost with the larger lot feature, then a carve-out is unnecessary. Furthermore, exact one-to-one proportion between lot sizes is unnecessary due to the likelihood that local housing market values are relatively similar for a range of typical residential lot sizes (e.g., approximately ¼-½ acres, 3-5 acres, 7-15 acres, over 20 acres).

6.2.4.3.3 Dwelling on land with higher and better use.

When the acquired dwelling is located on a property where the appraised and/or final settlement value is established on a higher and better use as commercial or industrial development/use, the price differential eligibility is the price of a comparable replacement dwelling minus the greater of the following, not to exceed the actual cost of the property acquired:

1. The HBU development value of the land for an area of a typical residential lot plus the contributory value of the dwelling; or
2. The value of a typical residential lot and the dwelling for continued residential use.

6.2.4.3.4 Residential/business or farm operation properties.

When a displacement dwelling is part of an acquired "mixed-use" property containing a business or part of a significant farm operation, the value of the residence and typical home site may be carved out from the acquisition payment in calculating the price differential eligibility for purchase of a replacement dwelling. A carve-out is not necessary for small "in-home" businesses where substantial alterations have not been made to accommodate the business (e.g., bookkeeping service, small beauty salon, or small engine repair shop).

6.2.4.4 **Partial acquisition.**

When the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the sponsor may offer to purchase the entire property. If the owner refuses to sell the remainder to the sponsor, the market value of the remainder may be added to the acquisition cost of the

displacement dwelling for purposes of calculating the replacement housing payment. A sponsor must only apply this option on a project-wide basis.

6.2.4.5 **Owner-occupant of multi-family dwelling.**

When a comparable multi-family property is not available at reasonable cost, then the portion of the acquisition cost that constitutes the owner's occupied unit is used to calculate the price differential eligibility. In cases where the displaced household is occupying more than one unit of a multi-family unit, single-family replacement housing may be offered as the available replacement dwelling, however it is not necessary to replace or carve-out duplicated residential property components that may occur on the acquired occupied property (e.g., additional kitchens, heating systems).

6.2.4.6 **Occupant with partial ownership.**

When a single family dwelling is owned by two or more persons and occupied by one or more of the owners, the replacement housing payment will be the lesser of the following values:

1. The difference between the owner-occupant's share of the acquisition cost of the displacement dwelling and the actual cost of the replacement dwelling; or
2. The difference between the total acquisition cost of the displacement dwelling and the amount determined by the sponsor as necessary to purchase a comparable dwelling.

6.2.4.7 **Owner retention.**

6.2.4.7.1 If the owner retains ownership of his or her dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling must be the sum of the following values:

1. The cost of moving and restoring the dwelling to a condition comparable to that prior to the move
2. The cost of making the unit a DSS replacement dwelling
3. The current market value for residential use of the replacement dwelling site, unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site
4. The retention value of the dwelling, if such retention value is reflected in the "acquisition cost" used when calculating the replacement housing payment

6.2.4.7.2 When calculated based on the cost of relocating the retained dwelling, the payment may not exceed the displaced person's calculated eligibility for the purchase of the selected comparable dwelling. Moreover, the dwelling

must be relocated to a site not within the airport's DNL 65 dB noise contour.

6.2.4.8 **Upgrading of replacement dwelling.**

As feasible, the airport may work with the displaced homeowner's purchase of a replacement dwelling that they intend to rehabilitate or improve. However, given an availability of comparable replacement dwellings at the time of displacement, there is no provision for any additional payments for cost incurred by a displaced homeowner who is undertaking home improvement if occupancy of a DSS dwelling is delayed. To conform to the payment eligibility requirements, the displaced homeowner must include any rehabilitation or home improvement work as part of the sales agreement, and/or in the mortgage financing for the purchase and improvement of the replacement dwelling. The rehabilitation or home improvement work and financing should be adequately structured with adequate building plans and specifications for the work prepared, conforming to local building codes and lender requirements; enforceable contractor guarantees; fire and hazard insurance requirements; bonding to assure satisfactory work and scheduled completion; and other requirements as deemed appropriate by the sponsor. The sponsor's obligation for replacement housing payment is met when the displaced person purchases and occupies the DSS replacement property. Costs for excessive ornamentation, or unusual and atypical features are not eligible for reimbursement on a replacement housing payment claim.

6.2.4.9 **Previously owned dwelling.**

When a displaced person relocates to a previously owned DSS dwelling the price differential eligibility is the lesser of either (1) the reasonable cost of a comparable replacement dwelling or (2) the current fair market value of the previously owned dwelling, minus the acquisition cost of the acquired property.

6.2.5 Rental Assistance Payment for 90-Day Homeowner.

A 90-day homeowner-occupant, who could be eligible for a replacement housing payment under Section 6.2.1 but instead elects to rent a replacement dwelling, is eligible for a rental assistance payment. The amount of the rental assistance payment is based on a determination of the market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. A rental assistance payment due to increased market rent, if any, is then calculated and disbursed in accordance with Sections 6.3, Replacement Housing Payment for 90-day Tenant (specifically Sections 6.3.1 and 6.3.3), except the statutory limit of $7,200 for a rental assistance payment does not apply. Under no circumstance would the rental assistance payment exceed the amount that could have been received under this section as an eligible displaced 90-day homeowner had the 90-day homeowner elected to purchase and occupy a comparable replacement dwelling.

6.2.6 Mortgage Interest Differential (MID) Payment.

An MID is provided to a displaced person to compensate for the increased interest costs the person would otherwise incur when financing a replacement dwelling. The MID is an amount that will reduce or "buy down" the displaced person's mortgage balance on a new mortgage to an amount that could be amortized with the same monthly payment for principal and interest cost. To calculate the MID, the remaining principal balance, interest rate, and monthly principal and interest payments for the pre-displacement mortgage, as well as an available replacement mortgage, must be obtained and documented. The interest rate on the acquired dwelling must be based on a valid recorded mortgage or other recorded documentation. In addition, the MID payment must (1) include other debt service costs that are normal to the area of the replacement dwelling if not otherwise paid as incidental costs, and (2) be based only on valid mortgages that were valid liens on the displacement dwelling for at least 180 days prior to the initiation of negotiations.

6.2.6.1 **MID eligibility calculation.**

The MID is the amount required to compensate for any additional interest cost necessary to purchase a replacement dwelling, not to exceed the cost of a conventional mortgage available at the prevailing fixed interest rate currently charged by mortgage lending institutions in the area in which the replacement dwelling is located. For acquired properties subject to a fixed rate mortgage, the pre-displacement interest rate is compared to the prevailing fixed interest rate. For acquired properties subject to an adjustable rate mortgage (ARM), the calculation of the MID eligibility is based on the lesser of the interest rate variance between the pre-displacement rate as of the date of acquisition versus the current fixed rate, or the variance between the maximum interest rate or "cap rates" of the pre-displacement and replacement ARM's with equivalent rate index and adjustment specifications. Under conditions of falling interest rates, it would be expected that the interest rate differential before and after displacement is zero (0) percent or less and a MID payment eligibility would not exist. Under conditions of rising interest rates, a MID eligibility may be necessary given the increased interest cost of an available replacement mortgage. Figure 6-3 provides a sample MID eligibility calculation for a fixed rate mortgage using FAA Form 5100-123; Figure 6-4 provides a sample calculation for an ARM, using FAA Form 5100-123-ARM.

Figure 6-2. Fixed Rate Mortgage Interest Differential Payment Eligibility

U.S. Department of Transportation
Federal Aviation Administration

Mortgage Maintenance Payment Computation (Use with 123-Fixed.xls)

Required Information

Displacee: Parcel Number:

1. Remaining principal balance on old mortgage.	1.	$ _____
2. Remaining amortization term of old mortgage as of date of acquisition. (Calculated in Step A. of Payment Calculation section below.)	2.	_____ Months
3. Annual interest rate of old mortgage.	3.	_____%
4. Monthly Payment: Existing monthly payment (actual payment as of date of acquisition), or; If the term of the replacement mortgage (line 6) is less than existing mortgage (line 2), use the shorter amortization term of the replacement mortgage to calculate a hypothetical monthly payment for the existing mortgage.	4.	$ _____
5. Replacement mortgage amount. (Enter lesser of actual amount or old balance amount, line1)	5.	$ _____
6. Amortization term of replacement mortgage.	6.	_____ Months
7. Annual interest rate of replacement mortgage. (Shall not exceed the prevailing fixed-term interest rate for conventional (non-government insured) mortgages currently charged by lenders in the area in which the replacement dwelling is located.)	7.	_____%
8. Purchaser's points and loan origination or assumption fees which are not paid as an incidental expense. (Not to exceed market norms.)	8.	_____%

Payment Calculation

A. Amortization period, LESSER OF (1) and (2) (1) Existing Mortgage Calculated Term $_____ (Line 1) with a monthly payment $_____ (Actual Amount) at interest rate _____% (Line 3) = _____Months (2) Term of Replacement Mortgage = _____Months (Line 6)	A.	_____Months
B. Amount of reduced loan having a monthly amortization payment of $_____ (Line 4) for _____ (Line A) months at an annual rate of _____% (Line 7)	B.	$ _____
C. Amount of mortgage reduction $ _____ (Line 1) - _____ (Line B)	C.	$ _____
D. Points and fees _____% (Line 8) × $_____ (Line B)	D.	$ _____
E. PAYMENT $_____ (Line C) + $_____ (Line D)	E.	$ _____
F. If the actual new mortgage is less than Line B $_____ (Line 5) ÷ $_____ (Line B) × $_____ (Line E)	F.	$ _____

FAA form 5100-123 (7/17) SUPERSEDES PREVIOUS EDITION

Page 1 of 3

Figure 6-3. Adjustable Rate Mortgage Interest Differential Payment Eligibility

U.S. Department of Transportation
Federal Aviation Administration

Mortgage Interest Differential (MID) Payment Eligibility Computation for Acquired Property Subject to an Adjustable Rate Mortgage (ARM)

I. Interest Rate Differential

A. Existing ARM:

1. Adjusted interest rate as of the date of acquisition. **7.20%**
2. Cap Rate, initial rate plus overall adjustment Cap: **10.79%**

Rate Specifications: Initial Rate: **5.79%** Rate Index: **1 year T-Security** Margin: **2.75%**
Periodic Rate Adjustment Cap: **2.00%** Overall Adjustment Cap: **5.00%**

B. Replacement Fixed-term Interest Rate: **8.30%**

C: Available Replacement ARM Cap Rate, (initial rate plus overall adjustment Cap): **11.40%**

Rate Specifications: Initial Rate: **6.40%**

To be comparable to the existing mortgage this ARM must have equivalent rate index, margin, and adjustment specifications, as noted in A2. above.

D. Rate Differential:

1. Fixed-term Rate,	**8.30%** (line B)	less existing mortgage rate as of acquisition date	**7.20%** (line A1)	**1.10%**	
2. Replacement ARM Cap rate,	**11.40%** (line C)	less existing mortgage Cap rate	**10.79%** (line A2)	**0.61%**	

IF D1<= D2, Enter **A1** value in line 3 of Section II. A. below and Enter **B** value in line 7 of Section II. A. below.

IF D1>D2, Enter **A2** value in line 3 of Section II. A. below and Enter **C** value in line 7 of Section II. A. below. **X**

II. Payment Eligibility Computation

A. Required Information/Calculations:

1. Remaining principal balance on old mortgage: **$100,000**
2. Remaining amortization term of old mortgage as of date of acquisition (months): **337**
3. Applicable interest rate of old ARM for payment computation.(*From Section I.D. above) **10.79%**
4. Monthly Payment: **$100,000** (Balance (line II 1)) @ **10.79%** (Int. rate (line II 3)) for **337** (months) (lesser of line 2 or 6) **$945**
5. Replacement mortgage amount: **$100,000**
6. Amortization term of replacement mortgage (months): **360**
7. Applicable interest rate of replacement mortgage: (From Section I. D. above.) **11.40%**
8. Purchaser's points and loan origination or assumption fees: **1.00%**

B. Amount of reduced loan having a monthly amortization payment of: **$95,410**

$945 (line II A.4.) for **337** months (lesser of line II A2 or II A6) at an annual interest rate of **11.40%** (line II A7)

C. Amount of mortgage reduction: **$100,000** (line A1) less **$95,410** (line B) **$4,590**

D. Points and fees: **1.00%** (line II A8) times **$95,410** (lesser of line II B or II A5) **$954**

E. PAYMENT: Total of Lines C and D: **$5,544**

F. If the actual new mortgage is less than Line B:

$0 (New Mortgage Amount) divided by **$0** (Line II B) equals **FALSE** times **$0** (Line II E) Plus Points = **N/A** (Line II D)

FAA Form 5100-123-ARM (7/17)

6.2.6.2 **MID payment calculation.**

Actual payment of the eligible MID to a displaced person is contingent upon a mortgage being placed on the replacement dwelling. The MID eligibility is based on the unpaid mortgage balance and the shorter of either (1) the remaining term of the mortgage on the displacement dwelling, or (2) the term of the new mortgage. In the event that the person purchases a replacement home that requires a smaller mortgage than the reduced mortgage balance, the calculated payment eligibility is prorated and reduced accordingly. In the case of a home equity loan, the unpaid balance used to calculate the payment is the lesser of either (1) the balance that existed 180 days prior to the initiation of negotiations, or (2) the balance on the date of acquisition.

6.2.6.3 **Reimbursable loan points.**

In addition to the calculated buy-down amount, the MID payment includes purchaser's points and loan origination or assumption fees to the extent that the following conditions apply:

1. Such points are not being paid as incidental expenses; and
2. Such points do not exceed rates normal to similar real estate transactions in the area;
3. The sponsor determines such points to be necessary; and
4. The calculation of such points and fees is based on the loan balance of displacement dwelling, minus the buy-down amount.

6.2.6.4 **Lump sum payment of additional points (if cost-effective).**

Replacement mortgage offerings typically include different interest rates and points. Of the available mortgages, the available mortgage with the lowest Annual Percentage Rate (APR) will typically prove to be the most cost-effective. The airport should base its MID eligibility on the most cost-effective loan available. If a replacement mortgage equal to the pre-displacement mortgage (interest rate and terms) is available with additional points, the airport may calculate the MID eligibility based on the higher prevailing rate at lesser points, or at the equal rate with additional points. The outstanding mortgage balance and remaining amortization term on the acquired home will determine if the payment of additional points for a lower rate is the most cost effective. The less costly payment eligibility would be the MID payment eligibility offered. FAA Form 5100-123 Fixed/ARM may be used to calculate the MID eligibility based on the regulatory requirements [49 CFR 24.401 (d)] to compare and document if the lump sum payment for additional points is cost-effective.

6.2.6.5 **Additional pre-displacement mortgage liens.**

When a displaced person has second or lesser priority mortgage liens, an overall MID eligibility is calculated based on the available conventional

mortgage financing of the total outstanding loan balance on the acquired property. Normally it would be expected that a single first lien mortgage would be secured to purchase a replacement property and an MID would be made to the extent that this mortgage interest exceeded the interest rates on the mortgage loan balances of the acquired property, not to exceed the prevailing fixed interest rate cost. When second mortgage financing is required for a displaced person to secure a replacement dwelling, the MID calculation and actual payment must be based on a comparison of the second mortgage rates.

6.2.7 Incidental Expenses.

The incidental expenses to be paid are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling. Such costs, customarily paid by the buyer, may include the following items:

1. Legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees, the total of which must not to exceed the costs of a normal comparable replacement dwelling
    a. For plats, the only necessary survey information is the legal description of the property, perimeter boundaries, and metes and bounds descriptions.
2. Lender, FHA, or VA application and appraisal fees
3. Loan origination or assumption fees that do not represent prepaid interest up to the amount of the mortgage on the displacement dwelling
4. Certification of structural soundness and termite inspection (as required)
5. Credit report
6. Owner's and mortgage holder's evidence of title, such as title insurance (not to exceed the costs for a comparable replacement dwelling)
7. Escrow agent's fee
8. State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling)
9. Such other costs as the sponsor determines to be incidental to the purchase

6.3 **90-Day Tenant.**

6.3.1 Payment Eligibility.

An tenant-occupant displaced from a dwelling is entitled to a payment not to exceed $7,200 for rental assistance or down payment assistance, if the displaced person meets the following conditions:

1. Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and

2. Has rented or purchased, and occupied a DSS replacement dwelling within one year after the following (unless extended by the sponsor for good cause):
   a. For a tenant, the date the displaced person moves from the displacement dwelling; or
   b. For an owner-occupant, the later of the following dates:
      i. The date the displaced person receives final payment for the displacement dwelling, or in the case of condemnation, date the full amount of the estimate of just compensation is deposited with the court; or
      ii. The date the displaced person moves from the displacement dwelling.

6.3.2 Rental Assistance Payment.

6.3.2.1 **Amount of payment.**

An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed $7,200 for rental assistance. Such payment must be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of the following:

1. The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or
2. The monthly rent and estimated average monthly cost of utilities for the DSS replacement dwelling actually occupied by the displaced person.

6.3.2.2 **Base monthly rental for displacement dwelling.**

The base monthly rental for the displacement dwelling is the lesser of the following:

1. The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the Agency; or
   a. For an owner-occupant, use the fair market rent for the displacement dwelling.
   b. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances.
2. Thirty (30) percent of the displaced person's average monthly gross household income, if the amount is classified as "low income" by the U.S. Department of Housing and Urban Development "HUD Program

Income Limits" [Section 8, Section 221(d)(3) BMIR, Section 235 and Section 236][12]; or

a. The base monthly rental must be established solely on the criteria in (b)(1) above for persons with income exceeding the survey's "low income" limits, for persons refusing to provide appropriate evidence of income, and for persons who are dependents.

b. A full-time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise.

3. The total of the amounts designated for shelter and utilities if the displaced person is receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

6.3.2.3 **Selected comparable replacement dwelling.**

Of the comparable listings searched, the property judged the most "comparable" (see Section 6.1.2) must be used as the "selected" comparable replacement dwelling to calculate the replacement housing payment eligibility for the displaced person. The sponsor must fully and systematically search the available replacement properties and select the dwelling that represents the most comparable property. Figure 6-1 (refer to Section 6.2.3) provides a format for comparing the features of available replacement property to the comparability requirements of the acquired dwelling to determine the "selected" comparable replacement dwelling.

6.3.2.4 **Documentation and certification.**

The same process as Section 6.2.3 for a 90-day homeowner to select a comparable dwelling is applied to select a comparable replacement rental dwelling. The selected comparable rental would be the available property for rent that best conforms to the definition of comparable dwelling (see Section 6.1.2). The form entitled "Replacement Housing Payment Determination - 90 Day Tenant" (see Appendix A) is recommended for documenting the comparable rental search and calculation of the replacement housing payment eligibility.

6.3.2.5 **Manner of disbursement.**

A rental assistance payment may be disbursed either in a lump sum or in installments at the sponsor's discretion, although installment payments must be made under last resort housing procedures.

[12] The U.S. Department of Housing and Urban Development's Public Housing and Section 8 Program Income Limits are updated annually and are available annually on the Federal Highway Administration's website at http://www.fhwa.dot.gov/realestate/ua/ualic.htm.

6.3.3 Down Payment Assistance.

6.3.3.1 **Amount of payment.**

An eligible displaced person who purchases a replacement dwelling is entitled to a down payment assistance payment in the amount that the person would receive under Section 6.4.6 if the person rented a comparable replacement dwelling. At the sponsor's discretion, a down payment assistance payment that is less than $7,200 may be increased to any amount not to exceed $7,200. However, the payment to a displaced homeowner must not exceed the amount the owner would receive under Section 6.2.5 if the homeowner met the 90-day occupancy requirement. If the Agency elects to provide the maximum payment of $7,200 as a down payment, the Agency must apply this discretion in a uniform and consistent manner, so that eligible displaced persons in similar circumstances are treated equally. A displaced person who is eligible to receive a payment, as a 90-day owner-occupant (as described Section 6.2.5) is not eligible for this payment.

6.3.3.2 **Application of payment.**

The full amount of the replacement housing payment for down payment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

6.4 Replacement Housing Payment Claims.

6.4.1 Claims for Replacement Housing Payments.

In order to obtain a replacement housing payment, a displaced person must file a written claim with the sponsor on a form provided by the sponsor for that purpose. The claim must be filed within 18 months after the later of either (1) the date the applicant moves from the displacement dwelling, or (2) the date of the final payment for the acquisition. See Appendix A for recommended claim forms that may be used for the sponsor's program.

6.4.2 Purchase/Lease of Replacement Dwelling.

A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person meets any of the following conditions:

1. Purchases a dwelling;
2. Purchases and rehabilitates a substandard dwelling;
3. Relocates a dwelling which he or she owns or purchases;
4. Constructs a dwelling on a site he or she owns or purchases;
5. Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases; or

6. Currently owns a previously purchased dwelling and site, the valuation of which must be based on current market value.

6.4.3 Inspection and Sponsor DSS Certification of Replacement Dwelling.

6.4.3.1 Before making a replacement housing payment or releasing the initial payment from escrow, the sponsor (or its designated representative) must inspect the replacement dwelling and determine whether it is a DSS dwelling (see Section 6.1.3).

6.4.3.2 The sponsor must certify that the dwelling to be purchased by the displaced person is DSS. Figure 6-5 provides a sample inspection and certification statement form. The DSS certification is made solely for purposes of providing the replacement housing payment, in accordance with the Uniform Act. A displaced person may not be paid any replacement housing payments for a dwelling that does not meet DSS standards. The sponsor must advise displaced persons that the sponsor's DSS certification must be made prior to, or as a condition to be satisfied in, a purchase or sales contract for the purchase of the replacement dwelling.

6.4.3.3 As applicable, the sponsor should advise the displaced person that the DSS certification is based on a visual inspection and certification that the property condition prior to purchase meets the specified DSS standards. Furthermore, the displaced person should be advised that the contract to purchase a replacement dwelling might be made conditional upon a satisfactory structural inspection of the property. The sponsor should maintain referrals of qualified structural engineers or building inspector to perform these inspections. The cost of an inspection secured by the displaced person is a reimbursable incidental cost (see Section 6.2.7).

Figure 6-4. DSS Inspection and Certification Form

U.S. Department of Transportation
Federal Aviation Administration

DSS INSPECTION AND CERTIFICATION

Project:	AIP #:
Displacee Name:	Parcel:
Displacement Address:	Displacement Dwelling DSS? ☐ Yes ☐ No Deficiencies:
Replacement Dwelling Address:	
Dwelling Type: ☐ Owned ☐ Rented	☐ Single Family ☐ Multi-Family ☐ Apartment ☐ Room/Dorm ☐ Condo/Coop ☐ Mobile Home ID/Tag #:_____
Bedrooms required for displaced household:_____. Bedrooms provided in replacement:_____	

INSPECTION REPORT

Does the replacement dwelling conform with the following standards for decent, safe, and sanitary housing?	☐ Yes ☐ No
Conforms with local housing and occupancy codes	☐ Yes ☐ No
Structurally sound, weather tight, and in good repair	☐ Yes ☐ No
Contains a heating system able to maintain 70ºF in living area	☐ Yes ☐ No
Has an adequate, safe electrical wiring system?	☐ Yes ☐ No
Has separate bathroom facilities that conform to DSS standards? (private, hot/cold water to sink & shower/tub, sewer connection, flush water closet, all in working order)	☐ Yes ☐ No
Has kitchen facilities that conform to DSS standards? (hot/cold water to sink, connected to sewer, range/refrig space & utility connection, all in working order)	☐ Yes ☐ No
Has adequate unobstructed egress	☐ Yes ☐ No
Is property barrier free to accommodate disabled displaced person?	☐ Yes ☐ No ☐ N/A

* If No, describe property improvements to be made to provide barrier free ingress, egress, or use of property as required to accommodate disabled person(s) prior to occupancy:

CERTIFICATION

TO THE BEST OF MY KNOWLEDGE, BASED ON VISUAL INSPECTION OF THE PROPERTY, THE REPLACEMENT DWELLING MEETS THE STANDARDS FOR DECENT, SAFE, AND SANITARY HOUSING, AS ESTABLISHED IN THE RELOCATION ASSISTANCE PROCEDURES OF THE AIRPORT AUTHORITY AND CONFORMING TO 49 CFR PART 24 FOR FEDERALLY ASSISTED PROJECTS.

THE DWELLING DOES NOT PRESENTLY CONFORM TO DSS REQUIREMENTS, BUT CAN BE MADE TO CONFORM BY ACCOMPLISHING THE FOLLOWING PRIOR TO PURCHASE AND OCCUPANCY.

THIS DETERMINATION IS MADE ON BEHALF OF THE AIRPORT AUTHORITY, AND IS MADE SOLELY FOR PURPOSES OF DETERMINING ELIGIBILITY FOR REPLACEMENT HOUSING PAYMENTS.

DATE: _____ INSPECTOR/AGENT: _____

Decent, Safe, and Sanitary Certification (7/17) SUPERSEDES PREVIOUS EDITION

6.4.4 Payment after Death.

A replacement housing payment is personal to the displaced person. Upon the death of the displaced person, the undisbursed portion of any such payment must not be paid to the heirs or assigns, with the following exceptions:

1. The amount attributable to the displaced person's period of actual occupancy of the replacement housing must be paid.
2. Any remaining payment must be disbursed to the remaining family members of the displaced household for any case in which a member of a displaced family dies.
3. Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person must be disbursed to the estate.

6.4.5 Insurance Proceeds.

To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (e.g., fire, flood) must be included in the acquisition cost of the displacement dwelling when calculating the price differential.

6.4.6 Deductions from Relocation Payments.

The sponsor must deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. The sponsor must not withhold any part of a relocation payment to a displaced person in order to satisfy an obligation to any other creditor.

6.4.7 Multiple Occupancy of One Displacement Dwelling.

If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to and may claim a reasonable prorated share, as determined by the sponsor, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the sponsor determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

6.4.8 Conversion of Payment.

A displaced person who initially rents a replacement dwelling and receives a rental assistance payment, but then purchases and occupies a replacement dwelling within the prescribed one-year period, is eligible to receive a replacement housing payment not to exceed $31,000, or a down payment not to exceed $7,200, if the eligibility criteria for such payment is met. However, any portion of the rental assistance payment that has been previously disbursed to the displaced person must be deducted from a subsequent replacement housing payment or down payment.

6.5 **Replacement Housing of Last Resort.**

6.5.1 Determination to Provide Replacement Housing of Last Resort.

6.5.1.1 Whenever an AIP-assisted project cannot proceed on a timely basis because comparable replacement dwellings are not, or are not expected to be, available within the statutory limits of $31,000 for owners or $7,200 for tenants, the sponsor must provide additional or alternative assistance under the provisions of this section in order to ensure that comparable replacement housing is made available to displaced residential occupants. Any decision to provide last resort housing assistance must be adequately justified and documented in either of the following ways:

1. On a case-by-case basis, for good cause, which means that appropriate consideration has been given to the following:
   a. The availability of comparable replacement housing in the program or project area
   b. The resources available to provide comparable replacement housing
   c. The individual circumstances of the displaced person
2. On a project-wide basis, based on the following determination:
   a. There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; therefore, last resort housing assistance is necessary for the area as a whole; and
   b. A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and
   c. The method selected for providing last resort housing assistance is cost effective, considering all elements, which contribute to total program or project costs.

6.5.1.2 In the sponsor's determination and Last Resort Housing plan, the FAA project manager should concur to provide needed comparable housing for the project displacement (see Section 6.5.3). Contact APP-400 for assistance with development of last resort housing methods and obtaining FAA acceptance.

6.5.2 Basic Rights of Persons to Be Displaced.

Notwithstanding any provision of this section, no person must be required to move from a displacement dwelling unless comparable replacement housing is available to that person. No person may be deprived of any rights the person has under the Uniform Act or 49 CFR 24. The sponsor must not require any displaced person to accept a dwelling provided by the sponsor under housing of last resort procedures (unless the sponsor and

the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.

6.5.3 Methods of Providing Comparable Replacement Housing.

Sponsors must have broad latitude in implementing last resort housing procedures but implementation must be for reasonable cost, on a case-by-case basis or as justified for an entire project.

6.5.3.1 The methods of providing replacement housing of last resort include, but are not limited to, the following criteria:

1. A replacement housing payment in excess of the statutory amounts for replacement housing payments as described in Sections 6.2 and 6.3 (i.e., $31,000 for displaced 90-day owners and $7,200 for 90-day residential occupants), which may be provided in installments or in a lump sum, at the Agency's discretion
2. Rehabilitation of and/or additions to an existing replacement dwelling
3. Construction of a new replacement dwelling
4. Provision of a direct loan that requires regular amortization or a deferred repayment, and which may be (a) secured or unsecured and (b) interest-bearing or interest-free
5. Relocation and, if necessary, rehabilitation of a dwelling
6. Purchase of land and/or a replacement dwelling by the displacing Agency, and subsequent sale to, lease to, or exchange with a displaced person
7. Removal of barriers for persons with disabilities
8. Reimbursement of reasonable fees when incurred to secure a loan on a replacement property for a person suffering from credit difficulties or similar situations at the time of displacement
    a. Generally, such fees should be limited to the normal amount for conventional loans near that location
    b. In some cases, fees in excess of the norm may be reimbursed when considered necessary and reasonable in the context of the financial ability of the person to pay such fees on a purchase of a comparable dwelling.

6.5.3.2 Under special circumstances, consistent with the definition of a comparable replacement dwelling, modified methods of providing replacement housing of last resort allow the consideration of space and physical characteristics that are different from those in the displacement dwelling (see 49 CFR 24, Appendix A, § 24.404), including upgraded, but smaller replacement housing that is a DSS dwelling and adequate to accommodate individuals or families displaced from marginal or

substandard housing with probable functional obsolescence. However, in no event, must a displaced person be required to move into a dwelling that is not functionally equivalent in accordance with 49 CFR 24, § 24.2(a)(6)(ii) .

6.5.4 Subsequent Occupants.

Subsequent occupants are displaced persons who either (1) occupied a dwelling acquired for a FAA-assisted project for less than 90 days before the initiation of negotiations, or (2) entered occupancy after the initiation of negotiations and are in occupancy on the date the property is acquired. If comparable replacement rental housing is not available at rental rates within the displaced person's financial means (see Section 6.2.2.h.3), then the Agency must provide assistance under this subpart to such displaced persons who are not eligible to receive a replacement housing payment due to failure to meet the length of occupancy requirement. Such assistance must cover a period of 42 months.

6.6 **Mobile Homes.**

6.6.1 Applicability.

This section describes the requirements governing the provision of replacement housing payments to a person displaced from a mobile home and/or mobile home site who meets the basic payment eligibility requirements described in Chapter 6. Eligible moving expenses for owners and displaced occupants of mobile homes are described in Chapter 5.

6.6.2 Determination of Displacement from the Mobile Home.

The sponsor must determine if the occupants of a mobile home are considered displaced from the mobile home for a project. This determination should be made uniformly in order to ensure an orderly and equitable relocation of all displaced residents. The sponsor's determination should consider the following factors:

6.6.2.1 If the mobile home is real estate under state law (i.e., bought and sold by deed, taxed as real estate, etc.) and is acquired for the project, then the owner or tenant occupants are considered displaced from the acquired dwelling (see Section 6.6.4).

6.6.2.2 If the mobile home is personal property under state law (i.e., not taxed as real estate, bought and sold by transfer of vehicle registration, etc.), and it can be moved to a comparable replacement site, and provide a DSS dwelling to the displaced mobile home residents, then the owner occupants are not considered displaced from their dwelling (see Section 6.6.5).

6.6.2.3 If the mobile home is personal property under state law (i.e., not taxed as real estate, bought and sold by transfer of vehicle registration, etc.), but the sponsor determines that either of the following conditions apply, then the

owner occupants are considered displaced from the acquired dwelling (see Section 6.6.3):

1. The mobile home is not, and cannot economically be made into a DSS dwelling; or
2. The mobile home cannot be relocated without substantial damage or unreasonable cost; or
3. The mobile home cannot be relocated because there is no available comparable replacement site; or
4. The mobile home cannot be relocated because it does not meet mobile home park entrance requirements.

6.6.2.4 Whether or not displaced from the mobile home itself, the owner or tenant occupants of the acquired mobile home site are eligible for a replacement housing payment for the purchase or lease of a comparable replacement home site.

6.6.3 Replacement Housing Payment for 90-Day Owner Displaced from a Mobile Home or Acquired Mobile Home Site.

An owner occupant that is displaced from a mobile home or acquired mobile home site is entitled to a replacement housing payment not to exceed $31,000 (see Section 6.5), if each of the following conditions apply:

6.6.3.1 The person occupied the mobile home on the displacement site for at least 90 days immediately before either of the following:

1. The initiation of negotiations to acquire the mobile home, if the person owned the mobile home and the mobile home is real property;
2. The initiation of negotiations to acquire the mobile home site, if the mobile home is personal property but the person owns the mobile home site; or
3. The date of the Agency's written notification to the owner-occupant that the owner is determined to be displaced from the mobile home (see Section 6.6.2.c).

6.6.3.2 The person meets the other basic eligibility requirements for a 90-day owner replacement housing payment (see Section 6.2.1.b).

6.6.3.3 The Agency acquires the mobile home as real estate, or acquires the mobile home site from the displaced owner, or the mobile home is personal property but the owner is displaced from the mobile home because the sponsor determines that the mobile home cannot be relocated to a comparable site or be made into a DSS dwelling.

6.6.4 Amount of Payment – Eligible 90-Day Owner.

The replacement housing payment for an eligible displaced 90-day owner must be calculated as described in Section 6.2.2, incorporating the following as applicable:

6.6.4.1 If the Agency acquires the mobile home as real estate and/or acquires the owned site, the acquisition cost used to calculate the price differential payment is the actual amount paid to the owner as just compensation for the acquisition of the mobile home, and/or site, if owned by the displaced mobile homeowner.

6.6.4.2 If the Agency does not purchase the mobile home as real estate but the owner is determined to be displaced from the mobile home and eligible for a replacement housing payment (based on Section 6.6.2.c), the eligible price differential payment for the purchase of a comparable replacement mobile home is the lesser of either (1) the displaced mobile homeowner's net cost to purchase a replacement mobile home (i.e., purchase price of the replacement mobile home less trade-in or sale proceeds of the displacement mobile home); or (2) the cost of the Agency's selected comparable mobile home, minus the Agency's estimate of the salvage or trade-in value for the mobile home from which the person is displaced.

6.6.4.3 If a comparable replacement mobile home site is not available, the price differential payment must be calculated based on the reasonable cost of a conventional comparable replacement dwelling.

6.6.4.4 If displaced from a leased or rented mobile home site, a 90-day owner-occupant is entitled to a rental assistance payment calculated as described in Section 6.6.6. This rental assistance payment may be used for either of the following purposes: (1) to lease a replacement site; (2) toward the purchase of a replacement site; or (3) toward the purchase of a replacement DSS mobile home and site or a conventional DSS dwelling (in combination with any replacement housing payment attributable to the mobile home.

6.6.5 Owner-Occupant Not Displaced from Mobile Home.

If the sponsor determines that a mobile home is personal property and may be relocated to a comparable replacement site, but the owner occupant elects not to do so, then the owner is not entitled to a replacement housing payment for the purchase of a replacement mobile home. However, the mobile home owner is eligible for moving costs (see Section 5.2.3.a) and any replacement housing payment for the purchase or rental of a comparable site if the owner is a 90-day site owner, or (as described in Section 6.6.6) if the owner is a site tenant or a less than 90-day owner-occupant of the acquired site.

6.6.6 Replacement Housing Payment for 90-Day Mobile Home Tenant.

A displaced tenant of a mobile home and/or mobile home site is eligible for a replacement housing payment, not to exceed $7,200 (see Section 6.5), calculated as described under Section 6.3 if each of the following conditions apply:

6.6.6.1 The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;

6.6.6.2 The person meets the other basic eligibility requirements from Section 6.3.1.b; and

6.6.6.3 The Agency acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the Agency but the Agency determines that the occupant is displaced from the mobile home because of one of the circumstances described in Section 6.6.2.c.

CHAPTER 7. MANAGEMENT OF ACQUIRED PROPERTY

7.1 Requirements.

When the sponsor takes possession and title to acquired real property, it assumes the liabilities and obligations as a property owner. The sponsor must ensure that its property management actions comply with applicable laws and regulations that govern its ownership and the removal or demolition of acquired property improvements. This section describes the FAA requirements concerning any interim use and the cost effective removal of improvements and clearance of land for eligible project purposes. After project development the ongoing use or release and disposal of airport owned real property is subject to the FAA Compliance Program requirements as described in FAA Order 5190.6A. The AIP Handbook, FAA Order 5100.38 describes the requirements for sponsor management re-use or disposal of acquired noise land.[13]

7.1.1 Owner Retention.

7.1.1.1 If the airport owner determines it to be practical and feasible, the owner of improvements or appurtenances on lands being acquired may be offered the option of retaining (buying back) the improvements or appurtenances at a retention (i.e., salvage) value. If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount offered for interest in that property must not be less than the difference between the amount determined as just compensation for the owner's entire interest in the property and the salvage value of the retained improvement. In addition, when buying back the improvement the owner agrees to remove the improvement from its present site, leaving the former site at an at-grade level free from rubble and any hazardous substance associated with the improvement being relocated.

7.1.1.2 In lieu of a retention offer, the owner may be advised to purchase the acquired improvements under Sale of Improvements procedures described at Section 7.1.3.

7.1.2 Interim Rental of Acquired Property.

The airport owner may permit a former owner or tenant, after acquisition of the property, to occupy the real property for a short term or a period subject to termination on short notice. However, before entering into a rental agreement, the airport owner should consider the liability it assumes on such property, the expenses involved in the maintenance and upkeep of the property while occupied and the possible difficulty of collecting rent from the short-term occupier. If the airport owner has decided that

[13] Noise land is acquired by the airport to remove incompatible land use under an approved 14 CFR Part 150 program or as mitigation approved under an environmental document and record of approval.

continued occupancy of the property is prudent, it must adhere to the following requirements:

7.1.2.1 **Establish appropriate rental rates.**

Establish a rental rate that does not exceed the fair market rent for such occupancy. Since the airport owner has the right to terminate occupancy on short notice, it also has the flexibility to establish a lower rental rate than might be found in a longer, fixed-term situation. However, rental rates must be applied uniformly throughout the project area.

7.1.2.2 **Prepare rental agreements.**

When preparing an agreement the airport owner may grant a free rent period of up to but not more than 90 days to a former owner-occupant of a dwelling in which he or she was residing at the time of acquisition.

7.1.2.3 **Supervise property and rental collections through terms of the lease.**

The airport owner should also assure that all conditions of a lease are complied with and that improvements are vacated in time for clearance by sale and/or demolition before project construction or other needs that requires clearance.

7.1.3 Sale of Acquired Improvements.

The sale for removal or salvage should generate the greatest return or savings to the project. As soon as a sufficient number of improvements are vacated, they should be offered for sale and removal in accordance with the following:

7.1.3.1 **Competitive bids**.

Competitive bids must be obtained through public auction, or sealed bids whenever practicable. Established acceptable advertising and bidding procedures should be utilized, and acceptance or rejection of the high bid must be subject to approval by the airport owner. Strict accounting and fiscal controls must be incorporated into the sale procedures and provisions made for adequate performance by the successful bidder. Greater benefits are generally received when:

1. A marketing study has been initiated to ascertain the demand for the improvements available for sale.
2. There has been adequate advertising of the sale.
3. The sale includes a sufficient number of structures to attract buyer interest but not so many as to glut the market.
4. Buyers are afforded the opportunity to bid on individual improvements or based on taking the entire group offered for sale. However, the airport owner retains the right to accept bids in the manner that will yield the maximum return to the public.

7.1.3.2 **Negotiated private sale.**

A negotiated private sale of the real property should only be considered when an improvement fails to sell at a public sale. In such instances, justification for the private sale must be explained and documented prior to approval of the transaction by the airport owner. However, a nonprofit organization can obtain improvements through a private sale with the airport owner for an amount not less than the approved documented salvage value of the improvement.

7.1.3.3 **Contract obligation.**

Upon acceptance of a successful bid, the airport owner should follow up to see that all conditions of the sales contract are met. The cost to remove portions of improvements left by a former owner or purchaser who strips the saleable item of all salvable material, forfeits the performance bond, and leaves the airport owner to remove the remainder by force account, demolition contract, or as an item in the general contract, is not an eligible airport project cost. To prevent the airport owner from incurring additional expenses should the purchaser forfeit the bond, the amount of the bond required of the purchaser should be adequate to cover the cost of the removal.

7.1.3.4 **Disposal of abandoned personal property.**

Personal property not moved by the displaced person because of simply abandoning the item, utilizing the tangible loss of personal property provision, or the purchase of a substitute item for a new location. If an item has not been sold or otherwise been disposed of, the airport owner is responsible for the removal. The manner by which personal property is disposed or transferred must be documented.

7.1.4 Demolition of Acquired Improvements.

7.1.4.1 **Sponsor obligation.**

For proper disposal of remaining improvements on the project site, it is recommended that the airport owner.

1. Perform a survey to determine whether any hazardous materials exist on the property. If the survey reveals the presence of any hazardous materials, the airport owner must identify abatement measures that are necessary to clean up or dispose of such materials in compliance with applicable law.
2. Obtain or prepare an estimate of the cost of demolition.
3. Advertise and solicit bids for the proposed demolition using accepted contracting procedures.
4. After an award of contract, perform intermediate and final inspections to assure compliance with contract provisions.

7.1.4.2 **Timeliness of clearance.**

The airport owner should implement procedures to ensure that permanently vacated improvements are removed as early as practicable after they are vacated or otherwise kept under protective surveillance. This action is encouraged to avoid vandalism or illegal uses of the property. The prompt clearance of vacated improvements when there are no plans to reoccupy the premises is necessary to reduce the cost to an acceptable level as well as to protect the public's interest that involves public safety, aesthetics, neighborhood preservation, and public health.

7.1.4.3 **Demolition contract.**

Demolition contracts should be of sufficient size to develop maximum competition in bidding.

1. Bid proposals should provide for plus or minus bids on each structure to be included in the demolition contract. Only in this manner can the airport owner be reasonably certain that it is receiving credit for any salvage value contained within the building.
2. Except in unusual circumstances, restrictions should not be placed on the method used by the contractor to clear the improvement other than local ordinance or other statutory requirements.

7.1.5 Rodent and Pest Control.

On all projects, the airport owner should determine if conditions are such that rodent and pest control measures are necessary. This action should not be necessary on rural projects unless they contain a substantial number of buildings, garbage dumps, landfills, etc.

7.1.5.1 **Inspection.**

If a project inspection indicates that rodent and pest control is desirable, action should be taken to eliminate the rodents and pests prior to demolition or removal of improvements located on the project area. Where an inspection is required, the files of the airport owner should contain documentation of the inspection and the decision as to whether or not extermination is necessary. The participation of other interested agencies (e.g., state, county, or city health departments) is highly desirable and should be requested.

7.1.5.2 **Procedures.**

The airport owner should submit its proposed procedures for accomplishing the intent of this paragraph to the FAA for review and comment. This submission should state that the procedures comply with all state and local laws and regulations governing rodent and pest control. It should also explain the method the airport owner will use to assure the reasonableness of costs to be incurred.

7.1.6 Income from Property Management.

FAA project manager will provide appropriate instruction to the sponsor on the use or disposition of any proceeds derived from the management of acquired property. Generally, income may offset against expenses, with net income properly accounted for as program income.

CHAPTER 8. SPONSOR CERTIFICATION

8.1 Requirements.

8.1.1 Title Evidence.

When requested by FAA, the sponsor is required to provide evidence that adequate title has been obtained for acquired property. As applicable the property interest obtained must be sufficient to permit possession and control for public airport purposes and allow the sponsor to carry out the obligations and covenants in the grant agreements. Adequate title evidence must be secured and certified by the sponsor's attorney to support the sponsor's certification. Appendix D entitled "Guidelines for Sponsor Certification of Title" provides guidelines that may be used by the sponsor's attorney in the preparation and submittal of the title certification when requested by the FAA.

8.1.2 Compliance to the Uniform Act (49 CFR Part 24).

8.1.2.1 Certification.

The sponsor must certify that real property was acquired in conformance to the Uniform Act. The sponsor must, as applicable, certify that all persons displaced from their homes for the project had been offered comparable replacement housing, and that all persons in occupancy at the initiation of negotiations had vacated the property and had been provided reimbursement of their moving expenses to a replacement site in accordance with the requirements of the Uniform Act. This certification must be provided concurrently with a sponsor's request for reimbursement and will cover the specific parcels for which the sponsor is requesting reimbursement of costs. Certification is also required for FAA grant approval for construction requiring the use of land previously acquired. As applicable, certification for construction operations must provide the status of possession and clearance of the acquired property to accommodate construction. The sponsor management, with authority over the acquisition and relocation process, must sign the certification statement. Figure 8-1 provides a sample certification statement.

Figure 8-1. Sample Real Property Acquisition Sponsor Certification Form

U.S. DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

AIRPORT IMPROVEMENT PROGRAM

REAL PROPERTY ACQUISITION

SAMPLE SPONSOR CERTIFICATION

(Sponsor)	*(Airport)*	*(Project Number)*

(Work Description)

Title 49, United States Code, section 47105(d), authorizes the Secretary to require certification from the sponsor that it will comply with the statutory and administrative requirements in carrying out a project under the Airport Improvement Program (AIP). Title 49, Code of Federal Regulations (CFR), Part 24 states the general requirements for real property acquisition and relocation assistance. The AIP project grant agreement contains specific requirements and assurances on the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (Uniform Act), as amended.

Except for the certified items below marked not applicable (N/A), the list includes major requirements for this aspect of project implementation, although it is not comprehensive, nor does it relieve the sponsor from fully complying with all applicable statutory and administrative standards.

	Yes	No	N/A	AC References
1. The sponsor's attorney or other official has (will have) good and sufficient title as well as title evidence on property in the project.	☐	☐	☐	**1.1.7**
2. If defects and/or encumbrances exist in the title that adversely impact the sponsor's intended use of property in the project, they have been (will be) extinguished, modified, or subordinated.	☐	☐	☐	**1.1.7**
3. If property for airport development is (will be) leased, the following conditions have been met: **a.** The term is for 20 years or the useful life of the project, **b.** The lessor is a public agency, and **c.** The lease contains no provisions that prevent full compliance with the grant agreement.	☐	☐	☐	**1.1.7** *(Also see AIP Handbook, Order 5100.38C, Chapter 7)*
4. Property in the project is (will be) in conformance with the current Exhibit A property map, which is based on deeds, title opinions, land surveys, the approved airport layout plan, and project documentation.	☐	☐	☐	**1.1.6**
5. For any acquisition of property interest in noise sensitive approach zones and related areas, property interest was (will be) obtained to ensure land is used for purposes compatible with noise levels associated with operation of the airport.	☐	☐	☐	**1.1.7** *(Also see AIP Handbook, Order 5100.38C, Chapter 8)*

6. For any acquisition of property interest in runway protection zones and areas related to 14 CFR 77 surfaces, property interest was (will be) obtained for the following: **a.** The right of flight, **b.** The right of ingress and egress to remove obstructions, and **c.** The right to restrict the establishment of future obstructions.	☐	☐	☐	**1.1.7** **2.2.8**
7. Appraisals prepared by qualified real estate appraisers hired by the sponsor include (will include) the following: **d.** Valuation data to estimate the current market value for the property interest acquired on each parcel, and **e.** Verification that an opportunity has been provided the property owner or representative to accompany appraisers during inspections.	☐	☐	☐	**Chapter 2** **2.1.1.b** **Figure 2-4**
8. Each appraisal has been (will be) reviewed by a qualified review appraiser to recommend an amount for the offer of just compensation, and the written appraisals as well as review appraisal are available to FAA for review.	☐	☐	☐	**2.1.3** **2.2.6** **Figure 2-3**
9. A written offer to acquire each parcel was (will be) presented to the property owner for not less than the approved amount of just compensation.	☐	☐	☐	**3.1.1.g** **3.2.5** **Figure 3-1**
10. Effort was (will be) made to acquire each property through the following negotiation procedures: **a.** No coercive action to induce agreement, and **b.** Supporting documents for settlements included in the project files.	☐	☐	☐	**3-9(b)** **3-9(i)** **Section 3.4**
11. If a negotiated settlement is not reached, the following procedures were (will be) used: **a.** Condemnation initiated and a court deposit not less than the just compensation made prior to possession of the property, and **b.** Supporting documents for awards included in the project files.	☐	☐	☐	**Section 3.4**
12. If displacement of persons, businesses, farm operations, or non-profit organizations is involved, a relocation assistance program was (will be) established, with displaced parties receiving general information on the program in writing, including relocation eligibility, and a 90-day notice to vacate.	☐	☐	☐	**Chapter 4** **Section 4.3** **Figures 4-3, 4-4, and 4-5**
13. Relocation assistance services, comparable replacement housing, and payment of necessary relocation expenses were (will be) provided within a reasonable time period for each displaced occupant in accordance with the Uniform Act.	☐	☐	☐	**4.2.5** **Chapter 5** **Chapter 6**

I certify, for the project identified herein, responses to the forgoing items are accurate as marked and have prepared documentation attached hereto for any item marked "no" that is correct and complete.

(Name of Sponsor)

(Signature of Sponsor's Designated Official Representative)

(Typed Name of Sponsor's Designated Official Representative)

(Typed Title of Sponsor's Designated Official Representative)

(Date)

8.1.2.2 **Documentation.**

The sponsor must maintain adequate documentation to support the above certification and to evidence compliance with the Uniform Act and FAA reimbursement requirements. Figure 8-2 provides a checklist that details minimum supporting documentation to be maintained in sponsor parcel files. Documentation deficiencies may result in the loss of federal funds for costs that may be cited and/or questioned on federal audit of sponsor program billings.

Figure 8-2. Acquisition/Relocation Records Checklist

U.S. Department of Transportation
Federal Aviation Administration

ACQUISITION/RELOCATION RECORDS CHECKLIST

Project:	Parcel:
Displacee Name:	
New Address:	Phone No:
Name of Official Providing Relocation Assistance:	
☐ Owner (Complete Part A) ☐ Tenant	Type of Use (Check One) ☐ Business ☐ Farm ☐ Nonprofit Org. - (Complete Part B & D) ☐ Residence - (Complete Parts B & C)

PART A. ACQUISITION (Owner-occupied property only)	
1. Appraisal report date, amount, and certification?	☐ In File ☐ N/A
2. Owner given opportunity to accompany appraiser?	☐ In File ☐ N/A
3. Appraisal review date, amount & justification?	☐ In File ☐ N/A
4. Written offer & Summary statement with the date & amount offered?	☐ In File ☐ N/A
5. Administrative settlement date, amount, and justification?	☐ In File ☐ N/A
6. Condemnation award date, amount & documentation?	☐ In File ☐ N/A
7. Date & amount owner paid or money made available by court & date of physical possession?	☐ In File ☐ N/A
8. Date and amount owner paid for expenses incidental to transfer or title?	☐ In File ☐ N/A
9. Offer to buy uneconomic remainder made to owner?	☐ In File ☐ N/A
10. Record of each negotiation contact?	☐ In File ☐ N/A
PART B. RELOCATION - GENERAL	
1. Displacee given relocation brochure?	☐ In File ☐ N/A
2. Displacee offered and accepted/refused relocation advisory services?	☐ In File ☐ N/A
3. Notice of intent to acquire?	☐ In File ☐ N/A
4. Displacee provided written notice to eligibility	☐ In File ☐ N/A
5. 90 day notice to vacate date required to move?	☐ In File ☐ N/A
6. Diary of personal contacts with displacee?	☐ In File ☐ N/A
7. Displacee notified of right to appeal, appeal process & outcome?	☐ In File ☐ N/A

Acquisition/Relocation Records Checklist (7/17) SUPERSEDES PREVIOUS EDITION Page 1 of 2

Figure 8-2 (cont.) Acquisition/Relocation Records Checklist

8. Date on which actual relocation occurred?	☐ In File ☐ N/A
9. Relocation accomplished with/without the airport owner?	☐ In File ☐ N/A
PART C. RELOCATION - RESIDENTIAL	
1. Type of property-single detached, multifamily, room no.?	☐ In File ☐ N/A
2. Data on displacee-address before & after relocation, number in family, age, race, etc.?	☐ In File ☐ N/A
3. Personal property storage, location, duration, bills?	☐ In File ☐ N/A
4. If actual cost move, justification for scheduled payment?	☐ In File ☐ N/A
5. Calculation of R.H.P. & certification of individual responsible for making same?	☐ In File ☐ N/A
6. Offer of assistance for R.H.P. accepted/declined	☐ In File ☐ N/A
7. Date & result of D.S.S. inspection?	☐ In File ☐ N/A
8. Fair market value of dwelling or monthly rent?	☐ In File ☐ N/A
9. Closing costs and/or increased mortgage interest differential?	☐ In File ☐ N/A
10. Date and amount of each payment claimed?	☐ In File ☐ N/A
11. Date and amount of each payment allowed?	☐ In File ☐ N/A
PART D. RELOCATION - BUSINESS, FARM, OR NONPROFIT ORGANIZATION	
1. Actual cost commercial move-receipted bills?	☐ In File ☐ N/A
2. Self move-bids, cost of obtaining bids, inventory, moving expenses finding?	☐ In File ☐ N/A
3. Actual direct losses of tangible personal property- advertising & sale costs, bills of sale, auction records, etc.?	☐ In File ☐ N/A
4. Searching expenses-bills, certified statement of time spent & wage rate?	☐ In File ☐ N/A
5. Fixed business in lieu of moving expenses-basis, justification, calculation of payment, tax records, etc.?	☐ In File ☐ N/A
6. Business re-establishment expenses?	☐ In File ☐ N/A
7. Date and amount of each payment claimed?	☐ In File ☐ N/A
8. Date and amount of each payment allowed?	☐ In File ☐ N/A
Remarks	

Acquisition/Relocation Records Checklist (7/17) SUPERSEDES PREVIOUS EDITION Page 2 of 2

8.1.3 Sponsor Compliance Review and Quality Control.

The sponsor is recommended to institute a compliance review and quality control function to assure maximum federal reimbursement of eligible costs. Appendix C provides a suggested format to develop a land project Quality Control Program (QCP) that sponsors may complete prior to billing costs for federal reimbursement. A sponsor instituted QCP will provide greater assurance of the reasonableness of cost incurred to FAA. The exact structure for this review may vary depending on the complexity of the project and of the sponsor's organization and fiscal operations. However, the review process relies on the detection and correction of errors as they may occur. Generally, a simple review process can be incorporated easily into the operational and fiscal functions of the sponsor's existing organizational structure.

8.1.4 FAA Program Monitoring.

8.1.4.1 FAA will perform periodic reviews of sponsor programs to assure conformance to Uniform Act mandates. Should program deficiencies be encountered the sponsor will be requested to initiate corrective action to restore compliance. These reviews will also be conducted to provide technical assistance to sponsors to facilitate compliance and program efficiency. The FAA and the sponsor share the common goals to maximize the public benefit of the sponsor's grant and to assure full accountability for the compliance of the sponsor's program to the requirements of the Uniform Act.

8.1.4.2 Appendix A provides a sample spot check review form that notes the applicable regulatory requirement for a particular work item. This form is available for use by FAA project managers and airport sponsors to review program compliance. This sample form notes the applicable regulatory requirement and AC reference to the particular work item.

APPENDIX A. FORMS DIRECTORY

AC 150/5100-17A Forms Directory

Forms may be downloaded from the FAA Website at
http://www.faa.gov/airports/resources/forms/.

FAA Form	Title
Form 5100-111	Certificate of Appraiser
Form 5100-112	Real Estate Appraisal – Short Form
Form 5100-112UR	Instructions and Attachment for Summary Appraisal Reports
Form 5100-113	Value Finding for Low Value Acquisition
Form 5100-114	Real Estate Appraiser Training and Experience Resume
Form 5100-115	Real Estate Appraisal Contract Proposal
Form 5100-116	Real Estate Appraisal Contract
Form 5100-119	Claim for Reimbursement of Expenses Incidental to Conveyance of Real Property
Form 5100-120	Land Acquisition Procedures and Payment Summary
Form 5100-121	Real Estate Appraisal Review Contract
Form 5100-122	Agreement for Acquisition and Relocation Services
Form 5100-123	Mortgage Maintenance Payment Computation
Form 5100-123-ARM	Mortgage Maintenance Payment Worksheet – Adjustable Rate Mortgage
Form 5100-123-Fixed	Mortgage Maintenance Payment Worksheet – Fixed Rate Mortgage
Form 5100-124-A	Schedule A Payment of Moving Costs – Non-Residential
Form 5100-124-B	Schedule B Direct Loss of or Purchase of Substitute Personal Property
Form 5100-124-C	Schedule C Search Expenses – Non-Residential
Form 5100-124-D	Schedule D Reestablishment Expenses – Non-Residential
Form 5100-124-E	Schedule E Related Non-Residential Expenses
Form 5100-124-Certificate	Claim for Relocation Payments – Non-Residential
Form 5100-125-A	Schedule A Payment of Moving Costs – Residential
Form 5100-125-B	Schedule B Claim for Homeowners Replacement Housing Payment
Form 5100-125-C	Schedule C Claim of Rental Replacement Housing Payments
Form 5100-125-D	Schedule D Down payment and Incidental Expenses - Residential
Form 5100-125-Certificate	Claim for Relocation Payments – Residential
Form 5100 Checklist	Acquisition/Relocation Records Checklist
Form 5100 DSSINSP	DSS Inspection and Certification
Form 5100 Pre-Audit	Sponsor Pre-Reimbursement Federal Aid Compliance Review
Form 5100 RHP Owner	(Sample) Replacement Housing Payment Eligibility Determination – 90-day Owner-Occupant
Form 5100 RHP Tenant	(Sample) Replacement Housing Payment Eligibility Determination – Tenant / occupant
Form 5100 Spot-check	Federal Aid Compliance Review

APPENDIX B. 49 CFR PART 24

B.1 Definition of Terms

Title 49, Code of Federal Regulations, Part 24 (49 CFR 24) defines the following terms, referenced throughout this Advisory Circular, which apply to airport sponsor land acquisition and relocation programs:

B.1.1 Alien Not Lawfully Present in the United States.

The phrase "alien not lawfully present in the United States" means an alien who is not "lawfully present" in the United States as defined in 8 CFR 103.12 and includes:

1. An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and whose stay in the United States has not been authorized by the United States Attorney General, and
2. An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.

B.1.2 Appraisal.

The term appraisal means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

B.1.3 Business.

The term business means any lawful activity, except a farm operation, that is conducted:

1. Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property;
2. Primarily for the sale of services to the public;
3. Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or
4. By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

B.1.4 Citizen.

The term citizen includes both citizens of the United States and noncitizen nationals.

B.1.5 Comparable Replacement Dwelling.

The term comparable replacement dwelling means a dwelling that is:

1. Decent, safe and sanitary as described;

2. Functionally equivalent to the displacement dwelling. The term functionally equivalent means that it performs the same function, and provides the same utility. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Agency may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling;
3. Adequate in size to accommodate the occupants;
4. In an area not subject to unreasonable adverse environmental conditions;
5. In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;
6. On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses.
7. Currently available to the displaced person on the private market except as provided in Section B.1.5.i below.
8. Within the financial means of the displaced person:
    a. A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days prior to initiation of negotiations (90-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential, all increased mortgage interest costs and all incidental expenses, plus any additional amount required to be paid under Replacement housing of last resort.
    b. A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling.
    c. For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if a sponsor pays that portion of the monthly housing costs of a replacement dwelling which exceeds the person’s base monthly rent for the displacement dwelling. Such rental assistance must be paid under replacement housing of last resort.
9. For a person receiving government housing assistance before displacement, a dwelling that may reflect similar government housing assistance. In such cases, any requirements of the government housing assistance program relating to the size of the replacement dwelling must apply.

B.1.6 Contribute Materially.

The term contribute materially means that during the two taxable years prior to the taxable year in which displacement occurs, or during such other period as the Agency determines to be more equitable, a business or farm operation:

1. Had average annual gross receipts of at least $5,000; or
2. Had average annual net earnings of at least $1,000; or
3. Contributed at least 33 1/3 percent of the owner or operator's average annual gross income from all sources.
4. If the application of the above criteria creates an inequity or hardship in any given case, the Agency may approve the use of other criteria as determined appropriate.

B.1.7 Decent, Safe, and Sanitary (DSS) Dwelling.

The term decent, safe, and sanitary dwelling means a dwelling that meets local housing and occupancy codes. However, any of the following standards that are not met by the local code must apply unless waived for good cause by the Federal Agency funding the project. For purposes of the Uniform Act, a DSS dwelling must:

1. Be structurally sound, weather tight, and in good repair;
2. Contain a safe electrical wiring system adequate for lighting and other devices;
3. Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system;
4. Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. The number of persons occupying each habitable room used for sleeping purposes must not exceed that permitted by local housing codes or, in the absence of local codes, the policies of the displacing Agency. In addition, the sponsor must follow the requirements for separate bedrooms for children of the opposite gender included in local housing codes or in the absence of local codes, FAA Airports policy that separate bedrooms are allowed;
5. There must be a separate, well lighted, and ventilated bathroom that provides privacy to the user, contains a sink, bathtub or shower stall, and a toilet, all in good working order, and properly connected to appropriate sources of water and a sewage drainage system. In the case of a housekeeping dwelling, there must be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator;
6. Contains unobstructed egress to safe, open space at ground level; and
7. For a displaced person with a disability, be free of any barriers that would preclude reasonable ingress, egress, or use of the dwelling by such displaced person. Reasonable accommodation of a displaced person with a disability at the replacement dwelling means the Agency is required to address persons with a

physical impairment that substantially limits one or more of the major life activities. In these situations, reasonable accommodation should include the following at a minimum: Doors of adequate width; ramps or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets and sinks; storage cabinets, vanities, sink and mirrors at appropriate heights. Kitchen accommodations will include sinks and storage cabinets built at appropriate heights for access. The sponsor must also consider other items that may be necessary, such as physical modification to a unit, based on the displaced person's needs.

B.1.8 Displaced Person.

B.1.8.1 **Displaced persons.**

The term displaced person means, except as provided in Section B.1.8.b, any person who moves from the real property or moves his or her personal property from the real property. (This includes a person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act for displaced homeowners or tenants.)

1. As a direct result of a written notice of intent to acquire, the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project;
2. As a direct result of rehabilitation or demolition for a project; or
3. As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person under this section applies only for purposes of obtaining relocation assistance advisory services under § 24.205(c), and moving expenses under § 24.301, § 24.302 or § 24.303.

B.1.8.2 **Persons not displaced.**

The following is a nonexclusive listing of persons who do not qualify as displaced persons under this part:

1. A person who moves before the initiation of negotiations unless the sponsor determines that the person was displaced as a direct result of the program or project;
2. A person who initially enters into occupancy of the property after the date of its acquisition for the project;
3. A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;
4. A person who is not required to relocate permanently as a direct result of a project. Because occupants in this category are not necessarily considered displaced persons care must be exercised to ensure that

they are treated fairly and equitably on the sponsor's AIP assisted programs. If the occupant of a residential dwelling will not be displaced, but is required to relocate temporarily in connection with an AIP assisted project, the temporarily occupied housing must be decent, safe, and sanitary, and the occupant must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including moving expenses and increased housing costs during the temporary. If an airport tenant business will be shut down for any significant length of time due to rehabilitation or demolition of a leased site, it may be temporarily relocated and reimbursed for all reasonable out of pocket expenses. The airport sponsor may determine that an airport tenant is displaced if the airport lease must be broken and/or tenant leasehold must be acquired to secure possession of needed land. Any person who disagrees with the sponsor's determination that he or she is not a displaced person may file an appeal with the airport sponsor.

5. An owner-occupant who conveys their property as a "Voluntary Transaction"; however, tenants in occupancy on the purchased property are displaced and entitled to eligible relocation assistance and payments.
6. A person whom the sponsor determines is not displaced as a direct result of a partial acquisition;
7. A person who, after receiving a notice of relocation eligibility is notified in writing that he or she will not be displaced for a project. Such notice must not be issued unless the person has not moved and the sponsor agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility;
8. A person who retains the right of use and occupancy of the real property for life following its acquisition by the sponsor;
9. A person who is determined to be in unlawful occupancy prior to or after the initiation of negotiations, or a person who has been evicted for cause. However, advisory assistance may be provided to unlawful occupants at the option of the sponsor in order to facilitate the project; or
10. A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation assistance as prescribed under the Uniform Act.

B.1.9 Dwelling.

The term dwelling means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a

condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

B.1.10 Dwelling Site.

The term dwelling site means a typical site upon which a dwelling is located.

B.1.11 Farm Operation.

The term farm operation means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

B.1.12 Household Income.

The term household income means total gross income received for a 12-month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, workers compensation social security, or the net income from a business. It does not include income received or earned by dependent children and full time students less than 18 years of age.

B.1.13 Initiation of Negotiations.

B.1.13.1 The initiation of negotiations means the delivery of the initial written offer of just compensation by the sponsor to the owner or the owner's representative to purchase the real property for the project. If the sponsor should issue a Notice of Intent to Acquire, and a person moves after that notice, but before delivery of the initial written purchase offer, the initiation of negotiations means the actual move of the person from the property.

B.1.13.2 In the case of permanent relocation of a tenant as result of a an Voluntary Transaction, the initiation of negotiations as described above, does not become effective for purposes of establishing the tenant eligibility for relocation assistance until there is a written purchase agreement for the real property with the property owner.

B.1.14 Mobile Home.

The term mobile home includes manufactured homes and recreational vehicles used as residences.

B.1.15 Mortgage.

The term mortgage means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

B.1.16 Non-Profit Organization.

The term nonprofit organization means an organization that is incorporated under the applicable laws of a State as a non-profit organization, and exempt from paying Federal income taxes under section 501 of the Internal Revenue Code (26 U.S.C. 501).

B.1.17 Notice of Intent to Acquire.

This is an explicit written notice the sponsor provides a person to be displaced for a project that establishes eligibility for relocation payments and assistance prior to the initiation of negotiations. This is not a required notice but when justified, may be used in lieu of the subsequently required notice of relocation eligibility. This "early" eligibility notice may be beneficial to assist the successful relocation of the displaced person or expedite project clearance. This notice should also provide the anticipated date of the initiation of negotiations, how additional information pertaining to relocation assistance payments and services can be obtained, and the effective date of the notice. If a property is tenant-occupied, both the owner and the tenant will be provided a notice of intent to acquire.

B.1.18 Owner of a Dwelling.

The term owner of a dwelling means a person who is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in real property:

1. Fee title, a life estate, a land contract, a 99 year lease, or a lease including any options for extension with at least 50 years to run from the date of acquisition; or
2. An interest in a cooperative housing project which includes the right to occupy a dwelling; or
3. A contract to purchase any of the interests or estates described above in (21)(i) or (ii) of this or,
4. Any other interest, including a partial interest, which in the judgment of the sponsor warrants consideration as ownership.

B.1.19 Person.

The term person means any individual, family, partnership, corporation, or association.

B.1.20 Salvage Value.

The term salvage value means the probable sale price of an item offered for sale to knowledgeable buyers with the requirement that it be removed from the property at a buyer's expense (i.e., not eligible for relocation assistance). This includes items for re-use as well as items with components that can be re-used or recycled when there is no reasonable prospect for sale except on this basis.

B.1.21 Small Business.

A small business is a business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of

economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of reestablishment expenses.

B.1.22 State.

Any of the several States of the United States or the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or a political subdivision of any of these jurisdictions.

B.1.23 Tenant.

The term tenant means a person who has the temporary use and occupancy of real property owned by another.

B.1.24 Uneconomic Remnant.

The term uneconomic remnant means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the sponsor has determined has little or no value or utility to the owner.

B.1.25 Unlawful Occupant.

A person who occupies without property right, title or payment of rent or a person legally evicted, with no legal rights to occupy a property under State law. A sponsor, at its discretion, may consider such person to be in lawful occupancy.

B.1.26 Utility Costs.

The term utility costs means expenses for electricity, gas, other heating and cooking fuels, water and sewer.

B.1.27 Utility Facility.

The term utility facility means any electric, gas, water, steam power, or materials transmission or distribution system; any transportation system; any communications system, including cable television; and any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system. A utility facility may be publicly, privately, or cooperatively owned.

B.1.28 Utility Relocation.

The term utility relocation means the adjustment of a utility facility required by the program or project undertaken by the sponsor. It includes removing and reinstalling the facility, including necessary temporary facilities; acquiring necessary right-of-way on a new location; moving, rearranging or changing the type of existing facilities; and taking any necessary safety and protective measures. It must also mean constructing a replacement facility that has the functional equivalency of the existing facility and is necessary for the continued operation of the utility service, the project economy, or sequence of project construction.

B.1.29 Waiver Valuation.

The term waiver valuation means the valuation process used and the product produced when the sponsor determines that an appraisal is not required, pursuant to appraisal waiver provisions.

APPENDIX C. SPONSOR QUALITY CONTROL PROGRAM

C.1 General.

The sponsor is encouraged to establish and maintain an effective Quality Control Program (QCP) that details the methods and procedures that will be taken to assure conformance to the requirements of the Uniform Act and to assure maximum reimbursement of cost with Federal funds. The following proposes guidelines and areas where a consistent and integrated review process should be initiated to support sponsor actions and costs for Federal reimbursement. The QCP will facilitate sponsor certification of compliance and allow timely Federal reimbursement of AIP project costs.

C.1.1 Intent.

The intent of the QCP is to enable the sponsor to establish the necessary level of control that will:

1. Adequately provide for the acquisition of property and relocation of displaced persons in compliance to the Uniform Act (49 CFR Part 24), and the sponsor's grant assurances.
2. Provide sufficient documentation to support Federal reimbursement of project costs, and to provide sponsor control over Federal-aid billings to assure only eligible costs are charged against the AIP grant.
3. Allow the sponsor as much latitude as possible to develop its own standard of control that may be fully integrated with the sponsor's existing organization and management goals.

C.2 Program Description.

The sponsor should develop the QCP adequate for the workload proposed for an AIP assisted project. The QCP is not intended to require redundant review or additional level of inspection than is currently appropriate as determined by the sponsor existing management requirements. The intent of the QCP is to preclude errors in compliance and excess costs by assuring adequate standards and requirements are known and adhered to initially when work is performed. The QCP as adapted for land acquisition and relocation assistance projects is simply a means for the sponsor management and staff to evaluate work continually against requirements and goals, and to assure actions and decisions made reflect applicable requirements. The program, generally described, presents those areas where review and assurance may be made which will lead to the overall acceptability of the sponsor's program.

C.2.1 Objectives.

To accomplish this purpose the sponsor's QCP should be organized to address the following:

1. Organization of the QCP within the sponsor's acquisition and relocation assistance process for AIP assisted projects.

2. Federal aid pre-billing review and assurance of compliance and eligibility.
3. Documentation requirements to support sponsor certification.
4. Requirements for corrective action when instances of non-compliance are encountered.

C.3 **Program Organization.**

It is expected that the sponsor's management goals and constraints will be a primary factor in determining the resources to devote to an effective QCP. However, these same constraints will also dictate the sponsor's ability to take on a project workload and, therefore, staff and resources are assumed available for an effective QCP on an AIP-assisted. The sponsor implementation of a QCP for land acquisition projects is not intended to require additional review or inspection than what sound management would dictate. The QCP is intended to be implemented throughout the acquisition and relocation process by the sponsor's or consultant staffs who are actually performing the work. In effect, the QCP provides a format and structure for staff to evaluate their work against requirements, and to provide the required documentation to management to approve or accept decisions and recommendations for necessary payments and costs. Therefore, project workload will be the determinant for the staffing and resource requirements of the sponsor's QCP. Smaller projects will likely not require dedicated staff to process documentation for payment approvals. Large projects will typically require some management and staff to maintain the documentation and approval system. Again, the organizational requirements are expected to be in place already and the QCP may simply be integrated into this structure.

C.4 **Sponsor Review and Acceptance.**

The form entitled "Sponsor Pre-Reimbursement Compliance Review" provided with this appendix indicates the fundamental requirements for Uniform Act compliance and represents the cost items the sponsor will incur on AIP land acquisition and relocation assistance project. It is intended that the recommended form be used to document acceptance of work and ultimately be maintained in the sponsor' central parcel files documenting acceptable work. The following briefly describes the judgments and evaluations that the sponsor should make in reviewing and accepting the work on an AIP project. Detailed requirements may be referenced for each functional category in the provisions of this AC.

C.4.1 Appraisal and Appraisal Review**.**

The sponsor should assure that the appraised date of value and review date are proximate to assure timely just compensation recommendations are made. Acceptance should not be made if the review date is significantly later than the date of value (e.g. more than 6 months) unless adequately explained by the review appraiser. In addition, the documentation of the Uniform Act mandates the appraiser process of owner accompaniment and adequate review to be scrutinized and accepted prior to the sponsor accepting the appraisal work as complete. The review appraiser should to conduct the

review and acceptance of this work. See Figure A.3-1 for a sample review form to be used during appraisal compliance review.

Figure C-1. Sponsor Pre-Reimbursement Federal-Aid Compliance Review Form

U.S. Department of Transportation Federal Aviation Administration	**Sponsor Pre-Reimbursement Federal-Aid** **Compliance Review (49 CFR Part 24)**	
Reviewer/Agent:	Title:	
Owner *(Name and Address)*:	Parcel:	AIP:
Property Location:	Tenant:	
Appraisal and Appraiser Review		
Appraiser: Date Appraised: 1st Appraised Amount:	Review Appraiser: Review Date: ☐ Amount Accepted ☐ Amount Rejected	
2nd Appraiser: Date Appraised: 2nd Appraised Amount:	2nd Review Appraiser: Review Date: ☐ Amount Accepted ☐ Amount Rejected	
Other Appraisal ☐ Yes ☐ No Date Appraised: Appraised Amount:	Review Appraiser: Review Date: ☐ Amount Accepted ☐ Amount Rejected	
Just Compensation Estimate:		
Owner provided opportunity to accompany appraiser ☐ Yes ☐ No	Appraisal/Appraisal Review acceptable to FAA ☐ Yes ☐ No*	
Remarks/Corrective action required for acceptance: *Corrective action complete: ☐ Yes ☐ No		
Reviewed By:	Title:	Date(s):

Figure C-1 (cont.) Sponsor Pre-Reimbursement Federal-Aid Compliance Review Form

Acquisitions

Negotiator:		Initial Offer Amount:	Personal Contact: ☐ Yes ☐ No
Initiation of Negotiations:		Offer in writing: ☐ Yes ☐ No	Summary Statement: ☐ Yes ☐ No
Offer to acquire tenant owned: ☐ Yes ☐ No ☐ N/A	Option/Agreement Date:	Amount:	Negotiators Log Signed: ☐ Yes ☐ No
Administrative Settlement Date:		Amount:	
Settlement Justification Acceptable: ☐ Yes ☐ No*		Condemnation: ☐ Yes ☐ No Date filed:	Amount Deposited: ☐ Yes ☐ No
Court Award Date:	Award Amount:	Trial Report Date:	Attorney:
Possession Date:	Incidental Costs:		Date Paid:
Acquisition Acceptable to the FAA: ☐ Yes ☐ No*			
Remarks/Corrective Action Required for Acceptance: *Corrective action complete: ☐ Yes ☐ No			
Reviewed By:	Title:		Date(s):

Figure C-1 (cont.) Sponsor Pre-Reimbursement Federal-Aid Compliance Review Form

Relocation Assistance - Residential Displacement

Agent:		Brochure Given: ☐ Yes ☐ No	
Initial Interview Date:		Relocation Services Offered: ☐ Yes ☐ No Accepted: ☐ Yes ☐ No	
Date Eligibility Notice:	RHP Offer Date:	Notice to Vacate Date:	Move Date:
RHP Eligibility Calculation Date:		Amount:	Mortgage Interest Differential (MID) Calculation:
List Price Adjustment Made: ☐ Yes ☐ No ☐ N/A		Calculations Acceptable: ☐ Yes ☐ No	
RHP Claimed Date:	RHP Claimed Amount:	MID Amount:	
RHP Paid Date:	RHP Amount:	MID Amount:	

Incidental Expenses Date Claimed:	Incidental Expenses Amount Claimed:	Incidental Expenses Date Paid:	Incidental Expenses Amount Paid:
DSS Certification Date:	DSS Certification Acceptable: ☐ Yes ☐ No*	Replacement Housing Payments Acceptable: ☐ Yes ☐ No*	
Moving Payment Date Claimed:	Moving Payment Amount Claimed:	Moving Payment Date Paid:	Moving Payment Amount:
Moving Payment Type: Schedule _____ (# of rooms ____)	Actual Cost:	Moving Payments Acceptable: ☐ Yes ☐ No*	

Remarks:

*Corrective action complete: ☐ Yes ☐ No

Reviewed By:	Title:	Date(s):

Sponsor Pre-Reimbursement Federal-aid Compliance Review (7/17) SUPERSEDES PREVIOUS EDITION Page 3 of 4

Figure C-1 (cont.) Sponsor Pre-Reimbursement Federal-Aid Compliance Review Form

Relocation Assistance – Business, Farms, NPO			
Displacee Name:		Occupancy: ☐Tenant ☐Owner	
Replacement Site Address:		Relocation Agent:	
Initial Interview Date:	Brochure Given: ☐Yes ☐No	Relocation Services Offered: ☐Yes ☐No	Relocation Services Accepted: ☐Yes ☐No
Date Eligibility Notice:	RHP Offer Date:	Notice to Vacate Date:	Move Date:

Inventory Date:	Inventory Update 1:	Inventory Update 2:
Moving Bid Date & Amount #1:	Moving Bid Date & Amount #2:	Moving Bid Date & Amount #3:
Self Move Eligibility Date & Amount:		
Moving Expense Claim Date & Amount #1:	Moving Expense Claim Date & Amount #2	Moving Expense Claim Date & Amount #3:
Moving Expense Paid Date & Amount #1:	Moving Expense Paid Date & Amount #2:	Moving Expense Paid Date & Amount #3:
Searching Expense Paid:	Reestablishment Expense Paid:	Fixed Payment (In Lieu) Amount:

Moving Payments Acceptable: ☐Yes ☐No*

Remarks:

*Corrective action complete: ☐Yes ☐No

Reviewed By:	Title:	Date(s):

Sponsor Pre-Reimbursement Federal-aid Compliance Review (7/17) SUPERSEDES PREVIOUS EDITION Page 4 of 4

C.4.2 Acquisition.

The sponsor's negotiator must, at a minimum, provide a written offer to the property owner at the initiation of negotiations, a written log of the negotiations, as applicable an offer to acquire tenant owned improvements; and as applicable a negotiated agreement, or a proposed administrative settlement, or a recommendation for condemnation. It is intended that the negotiator will summarize his or her activities on the form provided and present this to the sponsor or acquisition management for acceptance when the negotiations effort is complete or progress is being reviewed under normal sponsor procedures.

C.4.3 Relocation Assistance and Payments.

The sponsor must assure that relocation payments and assistance have been adequately provided to all displaced persons. The review form summarizes the documentation required to evidence acceptable payment determinations of displacee relocation claims. It is expected that relocation assistance staff would maintain this form and submit it for acceptance with displacee claims for payments. The sponsor's acceptance would provide concurrent assurance that Uniform Act compliance had been secured and that the relocation payments provided were reasonable and eligible for reimbursement.

C.5 **Corrective Action.**

Where Uniform Act compliance deficiencies are encountered, the sponsor must document that adequate corrective action had been taken to secure compliance. Where appropriate the sponsor must indicate costs that are ineligible for Federal reimbursement.

APPENDIX D. GUIDELINES FOR SPONSOR CERTIFICATION OF TITLE

D.1 Background.

D.1.1 Section 47106(b)(1) of the FAA Authorization Act of 1994 (referred to subsequently as "the Act") provides that a Federally assisted airport project cannot be approved until good title is held, satisfactory to the Secretary of the Department of Transportation, for areas of airport use for the landing, taking off, or surface maneuvering of aircraft, or gives assurance, satisfactory to the Secretary, that good title will be acquired. All land acquired under the AIP for airport development, future development, or noise purposes must be acquired in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91.646), as amended.

D.1.2 Section 47105(d) of the Act provides that the Secretary is authorized to require certification from a sponsor regarding compliance with statutory and administrative requirements imposed on such sponsor in connection with an AIP project.

D.2 Procedures.

D.2.1 Title.

The sponsor will investigate the quality of the title obtained and prepare a submission for land acquired under an AIP project consisting of a title evidence package or certification of title, or both, for each parcel or tract of land included in the grant agreement.

D.2.2 Title Assurance / Evidence.

The sponsor will ensure that the title obtained is adequate for the FAA assisted project. The sponsor must have sufficient title evidence to assure it possesses or will possess sufficient right, title and interest in the property to meet project requirements (e.g. construct, operate and maintain). Typically marketable fee title is for each parcel or tract of land included in the grant agreement. The following may be included as acceptable title evidence

D.2.2.1 **Basis of Title Opinion**.

The title opinion and/or abstract examination is to determine the fee owner of the property and to identify any outstanding interests adverse to the fee. This not only includes encumbrances on the title, but will also identify "clouds on title." A title search and/or title insurance commitment may be used at the discretion of the sponsor's attorney, containing at least the following:

1. A legal description of the parcel.
2. A statement as to the quality of the title or other interests held.
3. A statement concerning the defects and encumbrances.

4. Copies of the following:
   a. The grant deed for fee owned land.
   b. The easement deed for less than fee title interest.
   c. The lease for a long-term lease interest (public owned land only).
   d. The title insurance commitment and policy when the title opinion is based on such policy, or the name of the title company and policy number.
   e. The final order or court decree when land is obtained by condemnation.
   f. Subordination agreements or letters to indicate clearing of encumbrances.

D.2.2.2 **Property inspection.**

The property must be inspected for evidence of unrecorded easements or occupancy interests that may affect the title and would interfere with the operation and use of the airport. These and any title exceptions must be evaluated and as necessary cleared to ensure adequate marketable title is secured. Existing encroachments encumbering the property should also be noted during the inspection and cleared as necessary.

D.2.2.3 **Clearance of defects and encumbrances, as necessary.**

1. If the exercise of rights granted in a retained encumbrance could adversely affect the airport, the encumbrance must be extinguished with the FEE purchase of the needed land. Full clear FEE interest is required for the landing and building area of the airport, and for any extension. Typically all land incorporated within the airport is acquired in FEE simple, with all encumbrances cleared.

2. If it is determined that the cost to extinguish and remove a retained right or encumbrance is excessive, a FEE acquisition may not necessary because the encumbrance may be:

   a. Modified so that the height and/or location of any surface use or access is restricted to the extent necessary to be compatible with current and planned airport operations; and

   b. Subordinated to airport use and development. The surface use of any easement or reserved mineral or other allowable interest must be subordinated to the public airport use and applicable FAA requirements. Sample Subordination Agreements for a Utility (Figure D-2) and Oil, Gas, and Mineral Rights (Figure D-3) are shown below for the Sponsor Certification of Good Title.

3. Any retained encumbrance or right for surface use or development is subject to FAA review and approval as adequate title for airport and compatible land use. Any defect in title or outstanding encumbrances such as leases, easements, mortgages, liens, mineral rights, etc., must be set forth in the certification to permit a determination by the FAA as to whether they will interfere with the accomplishment of the project and the use and operation of the airport.

A STATEMENT BY THE SPONSOR'S ATTORNEY TO THE EFFECT THAT THERE ARE NO OUTSTANDING EXCEPTIONS/DEFECTS TO TITLE THAT WILL INTERFERE WITH THE AIRPORT IS NOT ACCEPTABLE WITHOUT EXPLANATION.

ANY DEFECTS IN THE TITLE REQUIRING CORRECTION AFTER ACCEPTANCE OF GOOD TITLE BY THE FAA WILL BE AT THE SPONSOR'S EXPENSE.

D.2.2.4 **Sponsor Certification of Title.**

1. **Submittal to FAA.** The sponsor will submit good title certification to the appropriate FAA office as part of the grant application and approval process. The FAA Airports Region or District/Program office will advise the sponsor of the needed submittals. The certification must be signed by the sponsor official authorized to sign the grant agreement and by the sponsor's attorney. A sample Certification of Title (Figure D-1) is provided following this section.
2. **FAA Acceptance.** Acceptance of certification does not relieve the sponsor of the requirement to obtain the necessary title documents/evidence nor the clearing of encumbrances that may affect the use and operation of the airport.
3. **Rescission.** The acceptance of a certification will be rescinded if it is determined by the FAA that the sponsor has not, in fact, complied with the requirements of the certification. If such determination is made after the grant agreement has been accepted, acceptance of the certification may be rescinded and the grant may be suspended.

Figure D-1. Sample Certificate of Title

CERTIFICATE OF TITLE

[Address to Appropriate Airports District Office Manager]

Dear:

The _____ (hereinafter referred to as the "sponsor"), pursuant to Section 47105(d) of the Federal Aviation Administration Authorization Act of 1994 (and amendments), hereby certifies that satisfactory property interest to the land indicated herein is vested in the sponsor under the terms and conditions of a Grant Agreement with the Federal Aviation Administration, Federal Project No. _____.

In the opinion of _____, Attorney for the sponsor, the sponsor has full legal title to the property interest indicated and, as shown on the Exhibit "A" as of the time and date stated in the title documents, has adequate title to satisfy local laws and ordinances:

Quality of Interest

Parcel Number (Per Exhibit "A")	(Fee, Easement, etc.)
_____	_____
_____	_____

The land interest acquired meets the requirements of the Federal Aviation Administration, except for easements, liens, separate mineral estate, leases, or other encumbrances on the parcels noted below. However, such encumbrances, which are described on the attachment, do not affect the use of the land for airport purposes.

Parcel(s) _____ _____ _____
_____ _____ _____

The evidence of title is based on an: (Check One)
_____ An abstract and record examination conducted on _____, or
_____ Title Insurance Policy No. _____ issued on _____ by
the_____ Title Insurance Company.

RECORDATION DATA: Recorded _____(date) in the land records of _____(County/City), _____ (State), in Book _____ Page _____.

The sponsor recognizes and accepts full responsibility for the clearing of any outstanding encumbrances, defects, and exceptions to the title that may in any way affect the future use and operation of the land for airport purposes as may be determined by the FAA. It is understood that the FAA reserves the right to cancel this certification at any time. Although specific title evidence documents are not submitted herewith, copies of deeds and other appropriate evidence of title for the land are on file with the sponsor and are available for inspection by the FAA.

Sincerely,

_____
Name of Sponsor

_____
Signature of sponsor official authorized to sign Grant Agreement

_____
Date

_____
Signature of Sponsor's Attorney
(For use when there is a co-sponsor)

_____
Name of Sponsor

_____
Signature of sponsor official authorized to sign Grant Agreement

_____
Date

_____
Signature of Sponsor Attorney

Figure D-2. Sample Subordination Agreement - Utility

SUBORDINATION AGREEMENT

Utility

THIS AGREEMENT made and entered into the _____ day of _____, 20 ___, by and between _____(Utility), _____County, State of_____, hereinafter referred to as Company," and the City of _____, a municipal corporation, hereinafter referred to as "City."

WITNESSETH:

WHEREAS, the City is the owner of that certain Municipal Airport located in _____ County, State of _____, and

WHEREAS, Company is the owner of (facility) and an easement for (facility) across a tract of land X feet in width lying in that part of Section , Township , Range (or refer to Legal Description), _____ County, State of _____, the centerline of which is described as follows: Beginning at a point . . . . . as shown by that certain Right of Way Easement recorded in Book , Page of the land records of, _____ County, State of _____, which said line and easement are located in under, upon and across a part of said Municipal Airport real estate, and,

WHEREAS, for the City to acquire adequate real property for public airport purposes it is required that District agree with the City that Company will subordinate its rights under said easement to airport use and development and will not, in the maintenance, repair, removal, relocation, or replacement of its said (facility), go upon the City's said airport property or in any manner interfere with or interrupt the use or operation of said airport or its attendant facilities, without prior coordination with, and the approval and/or issuance of permit by the City.

NOW THEREFORE, the parties hereto agree, each with the other, that Company will not, in the maintenance, repair, removal, relocation, or replacement of its above described facility, or in the exercise of any other easement right, go upon the City's said airport property or in any manner interfere with or interrupt the use or operation of said airport or its attendant facilities, without the prior approval of the City; and the City must not unreasonably withhold such approval.

This agreement is and must be binding upon and inure to the benefit of the parties and their successors and assigns.
IN WITNESS WHEREOF, we hereunto set our hands and seals on the day and year below our signatures indicated.

ATTEST:_____
_____ COMPANY
_____County, _____ State
BY: _____
DATE: _____

ATTEST:_____
CITY OF _____, _____ STATE
A MUNICIPAL CORPORATION
BY: _____
Date: _____
---NOTARIZED--- City Clerk

Figure D-3. Sample Subordination Agreement – Oil, Gas, and Mineral Rights

SUBORDINATION AGREEMENT

Oil, Gas, and Mineral Rights

THIS AGREEMENT made and entered into the _____ day of _____, l9___, by and between Owners name residing at _____County of _____, State of_____, and the _____ of _____, a municipal corporation and owner of the _____ airport, hereinafter referred to as "sponsor".

WHEREAS, Owners name is the owner of an undivided interest in and to all of the oil, gas and other minerals in, under or that may be produced from a certain _____ acre tract of land as further described in Exhibit "A", attached hereto; and, also a certain _____ acre tract of land as further described in Exhibit "B", attached hereto; and,

WHEREAS, the sponsor has purchased the tract of land described in Exhibit "A" for airport purposes and has acquired an avigation easement over the tract of land described in Exhibit "B"; and,

WHEREAS, the sponsor is the owner of the _____ airport constructed on the above described property, and the safe and efficient use, operation, maintenance, development and control of the airport requires the subordination of said mineral interests as provided herein;

NOW, THEREFORE, for and in consideration of the sum of ONE AND NO/100 ($1.00) DOLLARS and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged and confessed by Owners name the parties hereto agree as follows:

That the right to use the surface of the lands described in the attached Exhibit "A" and Exhibit "B" to explore for and produce oil, gas and other minerals will not be exercised in any manner that would, in the opinion of the sponsor or the Federal Aviation Administration, , their successors and nominees, adversely affect the safe and efficient use, operation, maintenance, development and control of said described property as an airport or for airport purposes; nor will such rights be exercised contrary to the rules and regulations of the sponsor or the Federal Aviation Administration, , their successors or nominees; but, otherwise this agreement must in no way limit or alter the right of Owners name to the full use and enjoyment of such undivided interest in and to such oil, gas or other minerals.

It is understood and agreed that the covenants contained in this agreement are and must be binding upon and inure to the parties and their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have set our hands and seals on the day and year below our signatures indicated.

_____ _____
Mineral owners typed name Mineral owners signature

ATTEST
_____
By: _____
_____ COMPANY
_____County, _____ State
BY: _____
DATE: _____
ATTEST:_____
CITY OF _____, _____ STATE
A MUNICIPAL CORPORATION
BY: _____
Date: _____
ATTEST:_____
City Clerk
---NOTARIZED---

Advisory Circular Feedback

If you find an error in this AC, have recommendations for improving it, or have suggestions for new items/subjects to be added, you may let us know by—

- Mailing this form to the FAA Office of Airports, Airport Planning and Environmental Division (APP-400) at FAA, APP-400, Room 615, 800 Independence Ave SW, Washington DC 20591; or
- Calling (202) 267-3263 to request an email address to which you can send it; or
- Faxing it to (202) 267-5383.

Subject: AC 150/5100-17 Change 7 **Date:** _____

Please check all appropriate line items:

☐ An error (procedural or typographical) has been noted in paragraph _____ on page _____.

☐ Recommend paragraph _____ on page _____ be changed as follows:

_____
_____
_____

☐ In a future change to this AC, please cover the following subject:
(Briefly describe what you want added.)

_____
_____
_____

☐ Other comments:

_____
_____
_____

☐ I would like to discuss the above. Please contact me at (phone number, email address).

Submitted by: _____ Date: _____

e-CFR data is current as of March 10, 2020

Title 49: Transportation

PART 24—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY-ASSISTED PROGRAMS

Contents

Subpart A—General

§24.1 Purpose.
§24.2 Definitions and acronyms.
§24.3 No duplication of payments.
§24.4 Assurances, monitoring and corrective action.
§24.5 Manner of notices.
§24.6 Administration of jointly-funded projects.
§24.7 Federal Agency waiver of regulations.
§24.8 Compliance with other laws and regulations.
§24.9 Recordkeeping and reports.
§24.10 Appeals.

Subpart B—Real Property Acquisition

§24.101 Applicability of acquisition requirements.
§24.102 Basic acquisition policies.
§24.103 Criteria for appraisals.
§24.104 Review of appraisals.
§24.105 Acquisition of tenant-owned improvements.
§24.106 Expenses incidental to transfer of title to the Agency.
§24.107 Certain litigation expenses.
§24.108 Donations.

Subpart C—General Relocation Requirements

§24.201 Purpose.
§24.202 Applicability.
§24.203 Relocation notices.
§24.204 Availability of comparable replacement dwelling before displacement.
§24.205 Relocation planning, advisory services, and coordination.
§24.206 Eviction for cause.
§24.207 General requirements—claims for relocation payments.
§24.208 Aliens not lawfully present in the United States.
§24.209 Relocation payments not considered as income.

Subpart D—Payments for Moving and Related Expenses

§24.301 Payment for actual reasonable moving and related expenses.
§24.302 Fixed payment for moving expenses—residential moves.
§24.303 Related nonresidential eligible expenses.
§24.304 Reestablishment expenses—nonresidential moves.
§24.305 Fixed payment for moving expenses—nonresidential moves.
§24.306 Discretionary utility relocation payments.

Subpart E—Replacement Housing Payments

§24.401 Replacement housing payment for 180-day homeowner-occupants.
§24.402 Replacement housing payment for 90-day occupants.
§24.403 Additional rules governing replacement housing payments.
§24.404 Replacement housing of last resort.

Subpart F—Mobile Homes

§24.501 Applicability.
§24.502 Replacement housing payment for 180-day mobile homeowner displaced from a mobile home, and/or from the acquired mobile home site.
§24.503 Replacement housing payment for 90-day mobile home occupants.

Subpart G—Certification

§24.601 Purpose.
§24.602 Certification application.
§24.603 Monitoring and corrective action.

Appendix A to Part 24—Additional Information
Appendix B to Part 24—Statistical Report Form

AUTHORITY: 42 U.S.C. 4601 *et seq.;* 49 CFR 1.48(cc).

SOURCE: 70 FR 611, Jan. 4, 2005, unless otherwise noted.

Back to Top

Subpart A—General

Back to Top

§24.1 Purpose.

The purpose of this part is to promulgate rules to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 *et seq.*) (Uniform Act), in accordance with the following objectives:

(a) To ensure that owners of real property to be acquired for Federal and federally-assisted projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in Federal and federally-assisted land acquisition programs;

(b) To ensure that persons displaced as a direct result of Federal or federally-assisted projects are treated fairly, consistently, and equitably so that such displaced persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole; and

(c) To ensure that Agencies implement these regulations in a manner that is efficient and cost effective.

Back to Top

§24.2 Definitions and acronyms.

(a) *Definitions.* Unless otherwise noted, the following terms used in this part shall be understood as defined in this section:

(1) *Agency.* The term *Agency* means the Federal Agency, State, State Agency, or person that acquires real property or displaces a person.

(i) *Acquiring Agency.* The term *acquiring Agency* means a State Agency, as defined in paragraph (a)(1)(iv) of this section, which has the authority to acquire property by eminent domain under State law, and a State Agency or person which does not have such authority.

(ii) *Displacing Agency.* The term *displacing Agency* means any Federal Agency carrying out a program or project, and any State, State Agency, or person carrying out a program or project with Federal financial assistance, which causes a person to be a displaced person.

(iii) *Federal Agency.* The term *Federal Agency* means any department, Agency, or instrumentality in the executive branch of the government, any wholly owned government corporation, the Architect of the Capitol, the Federal Reserve Banks and branches thereof, and any person who has the authority to acquire property by eminent domain under Federal law.

(iv) *State Agency.* The term *State Agency* means any department, Agency or instrumentality of a State or of a political subdivision of a State, any department, Agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States, and any person who has the authority to acquire property by eminent domain under State law.

(2) *Alien not lawfully present in the United States.* The phrase “alien not lawfully present in the United States” means an alien who is not “lawfully present” in the United States as defined in 8 CFR 103.12 and includes:

(i) An alien present in the United States who has not been admitted or paroled into the United States pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 *et seq.*) and whose stay in the United States has not been authorized by the United States Attorney General; and,

(ii) An alien who is present in the United States after the expiration of the period of stay authorized by the United States Attorney General or who otherwise violates the terms and conditions of admission, parole or authorization to stay in the United States.

(3) *Appraisal.* The term *appraisal* means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(4) *Business.* The term *business* means any lawful activity, except a farm operation, that is conducted:

(i) Primarily for the purchase, sale, lease and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property;

(ii) Primarily for the sale of services to the public;

(iii) Primarily for outdoor advertising display purposes, when the display must be moved as a result of the project; or

(iv) By a nonprofit organization that has established its nonprofit status under applicable Federal or State law.

(5) *Citizen.* The term *citizen* for purposes of this part includes both citizens of the United States and noncitizen nationals.

(6) *Comparable replacement dwelling.* The term *comparable replacement dwelling* means a dwelling which is:

(i) Decent, safe and sanitary as described in paragraph 24.2(a)(8) of this section;

(ii) Functionally equivalent to the displacement dwelling. The term *functionally equivalent* means that it performs the same function, and provides the same utility. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features must be present. Generally, functional equivalency is an objective standard, reflecting the range of purposes for which the various physical features of a dwelling may be used. However, in determining whether a replacement dwelling is functionally equivalent to the displacement dwelling, the Agency may consider reasonable trade-offs for specific features when the replacement unit is equal to or better than the displacement dwelling (*See* appendix A, §24.2(a)(6));

(iii) Adequate in size to accommodate the occupants;

(iv) In an area not subject to unreasonable adverse environmental conditions;

(v) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities and commercial and public facilities, and reasonably accessible to the person's place of employment;

(vi) On a site that is typical in size for residential development with normal site improvements, including customary landscaping. The site need not include special improvements such as outbuildings, swimming pools, or greenhouses. (See also §24.403(a)(2));

(vii) Currently available to the displaced person on the private market except as provided in paragraph (a)(6)(ix) of this section (See appendix A, §24.2(a)(6)(vii)); and

(viii) Within the financial means of the displaced person:

(A) A replacement dwelling purchased by a homeowner in occupancy at the displacement dwelling for at least 180 days prior to initiation of negotiations (180-day homeowner) is considered to be within the homeowner's financial means if the homeowner will receive the full price differential as described in §24.401(c), all increased mortgage interest costs as described at §24.401(d) and all incidental expenses as described at §24.401(e), plus any additional amount required to be paid under §24.404, Replacement housing of last resort.

(B) A replacement dwelling rented by an eligible displaced person is considered to be within his or her financial means if, after receiving rental assistance under this part, the person's monthly rent and estimated average monthly utility costs for the replacement dwelling do not exceed the person's base monthly rental for the displacement dwelling as described at §24.402(b)(2).

(C) For a displaced person who is not eligible to receive a replacement housing payment because of the person's failure to meet length-of-occupancy requirements, comparable replacement rental housing is considered to be within the person's financial means if an Agency pays that portion of the monthly housing costs of a replacement dwelling which exceeds the person's base monthly rent for the displacement dwelling as described in §24.402(b)(2). Such rental assistance must be paid under §24.404, Replacement housing of last resort.

(ix) For a person receiving government housing assistance before displacement, a dwelling that may reflect similar government housing assistance. In such cases any requirements of the government housing assistance program relating to the size of the replacement dwelling shall apply. (*See* appendix A, §24.2(a)(6)(ix).)

(7) *Contribute materially.* The term *contribute materially* means that during the 2 taxable years prior to the taxable year in which displacement occurs, or during such other period as the Agency determines to be more equitable, a business or farm operation:

(i) Had average annual gross receipts of at least $5,000; or

(ii) Had average annual net earnings of at least $1,000; or

(iii) Contributed at least 33⅓ percent of the owner's or operator's average annual gross income from all sources.

(iv) If the application of the above criteria creates an inequity or hardship in any given case, the Agency may approve the use of other criteria as determined appropriate.

(8) *Decent, safe, and sanitary dwelling.* The term *decent, safe, and sanitary dwelling* means a dwelling which meets local housing and occupancy codes. However, any of the following standards which are not met by the local code shall apply unless waived for good cause by the Federal Agency funding the project. The dwelling shall:

(i) Be structurally sound, weather tight, and in good repair;

(ii) Contain a safe electrical wiring system adequate for lighting and other devices;

(iii) Contain a heating system capable of sustaining a healthful temperature (of approximately 70 degrees) for a displaced person, except in those areas where local climatic conditions do not require such a system;

(iv) Be adequate in size with respect to the number of rooms and area of living space needed to accommodate the displaced person. The number of persons occupying each habitable room used for sleeping purposes shall not exceed that permitted by local housing codes or, in the absence of local codes, the policies of the displacing Agency. In addition, the displacing Agency shall follow the requirements for separate bedrooms for children of the opposite gender included in local housing codes or in the absence of local codes, the policies of such Agencies;

(v) There shall be a separate, well lighted and ventilated bathroom that provides privacy to the user and contains a sink, bathtub or shower stall, and a toilet, all in good working order and properly connected to appropriate sources of water and to a sewage drainage system. In the case of a housekeeping dwelling, there shall be a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility service connections for a stove and refrigerator;

(vi) Contains unobstructed egress to safe, open space at ground level; and

(vii) For a displaced person with a disability, be free of any barriers which would preclude reasonable ingress, egress, or use of the dwelling by such displaced person. (See appendix A, §24.2(a)(8)(vii).)

(9) *Displaced person.* (i) *General.* The term *displaced person* means, except as provided in paragraph (a)(9)(ii) of this section, any person who moves from the real property or moves his or her personal property from the real property. (This includes a person who occupies the real property prior to its acquisition, but who does not meet the length of occupancy requirements of the Uniform Act as described at §24.401(a) and §24.402(a)):

(A) As a direct result of a written notice of intent to acquire (see §24.203(d)), the initiation of negotiations for, or the acquisition of, such real property in whole or in part for a project;

(B) As a direct result of rehabilitation or demolition for a project; or

(C) As a direct result of a written notice of intent to acquire, or the acquisition, rehabilitation or demolition of, in whole or in part, other real property on which the person conducts a business or farm operation, for a project. However, eligibility for such person under this paragraph applies only for purposes of obtaining relocation assistance advisory services under §24.205(c), and moving expenses under §24.301, §24.302 or §24.303.

(ii) *Persons not displaced.* The following is a nonexclusive listing of persons who do not qualify as displaced persons under this part:

(A) A person who moves before the initiation of negotiations (see §24.403(d)), unless the Agency determines that the person was displaced as a direct result of the program or project;

(B) A person who initially enters into occupancy of the property after the date of its acquisition for the project;

(C) A person who has occupied the property for the purpose of obtaining assistance under the Uniform Act;

(D) A person who is not required to relocate permanently as a direct result of a project. Such determination shall be made by the Agency in accordance with any guidelines established by the Federal Agency funding the project (See appendix A, §24.2 (a)(9)(ii)(D));

(E) An owner-occupant who moves as a result of an acquisition of real property as described in §§24.101(a)(2) or 24.101 (b)(1) or (2), or as a result of the rehabilitation or demolition of the real property. (However, the displacement of a tenant as a direct result of any acquisition, rehabilitation or demolition for a Federal or federally-assisted project is subject to this part.);

(F) A person whom the Agency determines is not displaced as a direct result of a partial acquisition;

(G) A person who, after receiving a notice of relocation eligibility (described at §24.203(b)), is notified in writing that he or she will not be displaced for a project. Such written notification shall not be issued unless the person has not moved and the Agency agrees to reimburse the person for any expenses incurred to satisfy any binding contractual relocation obligations entered into after the effective date of the notice of relocation eligibility;

(H) An owner-occupant who conveys his or her property, as described in §§24.101(a)(2) or 24.101(b)(1) or (2), after being informed in writing that if a mutually satisfactory agreement on terms of the conveyance cannot be reached, the Agency will not acquire the property. In such cases, however, any resulting displacement of a tenant is subject to the regulations in this part;

(I) A person who retains the right of use and occupancy of the real property for life following its acquisition by the Agency;

(J) An owner who retains the right of use and occupancy of the real property for a fixed term after its acquisition by the Department of the Interior under Pub. L. 93-477, Appropriations for National Park System, or Pub. L. 93-303, Land and Water Conservation Fund, except that such owner remains a displaced person for purposes of subpart D of this part;

(K) A person who is determined to be in unlawful occupancy prior to or after the initiation of negotiations, or a person who has been evicted for cause, under applicable law, as provided for in §24.206. However, advisory assistance may be provided to unlawful occupants at the option of the Agency in order to facilitate the project;

(L) A person who is not lawfully present in the United States and who has been determined to be ineligible for relocation assistance in accordance with §24.208; or

(M) Tenants required to move as a result of the sale of their dwelling to a person using downpayment assistance provided under the American Dream Downpayment Initiative (ADDI) authorized by section 102 of the American Dream Downpayment Act (Pub. L. 108-186; codified at 42 U.S.C. 12821).

(10) *Dwelling.* The term *dwelling* means the place of permanent or customary and usual residence of a person, according to local custom or law, including a single family house; a single family unit in a two-family, multi-family, or multi-purpose property; a unit of a condominium or cooperative housing project; a non-housekeeping unit; a mobile home; or any other residential unit.

(11) *Dwelling site.* The term *dwelling site* means a land area that is typical in size for similar dwellings located in the same neighborhood or rural area. (See appendix A, §24.2(a)(11).)

(12) *Farm operation.* The term *farm operation* means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(13) *Federal financial assistance.* The term *Federal financial assistance* means a grant, loan, or contribution provided by the United States, except any Federal guarantee or insurance and any interest reduction payment to an individual in connection with the purchase and occupancy of a residence by that individual.

(14) *Household income.* The term *household income* means total gross income received for a 12 month period from all sources (earned and unearned) including, but not limited to wages, salary, child support, alimony, unemployment benefits, workers compensation, social security, or the net income from a business. It does not include income received or earned by dependent children and full time students under 18 years of age. (*See* appendix A, §24.2(a)(14) for examples of exclusions to income.)

(15) *Initiation of negotiations.* Unless a different action is specified in applicable Federal program regulations, the term *initiation of negotiations* means the following:

(i) Whenever the displacement results from the acquisition of the real property by a Federal Agency or State Agency, the *initiation of negotiations* means the delivery of the initial written offer of just compensation by the Agency to the owner or the owner's representative to purchase the real property for the project. However, if the Federal Agency or State Agency issues a notice of its intent to acquire the real property, and a person moves after that notice, but before delivery of the initial written purchase offer, the *initiation of negotiations* means the actual move of the person from the property.

(ii) Whenever the displacement is caused by rehabilitation, demolition or privately undertaken acquisition of the real property (and there is no related acquisition by a Federal Agency or a State Agency), the *initiation of negotiations* means the

notice to the person that he or she will be displaced by the project or, if there is no notice, the actual move of the person from the property.

(iii) In the case of a permanent relocation to protect the public health and welfare, under the Comprehensive Environmental Response Compensation and Liability Act of 1980 (Pub. L. 96-510, or Superfund) (CERCLA) the *initiation of negotiations* means the formal announcement of such relocation or the Federal or federally-coordinated health advisory where the Federal Government later decides to conduct a permanent relocation.

(iv) In the case of permanent relocation of a tenant as a result of an acquisition of real property described in §24.101(b)(1) through (5), the initiation of negotiations means the actions described in §24.2(a)(15)(i) and (ii), except that such initiation of negotiations does not become effective, for purposes of establishing eligibility for relocation assistance for such tenants under this part, until there is a written agreement between the Agency and the owner to purchase the real property. (See appendix A, §24.2(a)(15)(iv)).

(16) *Lead Agency.* The term *Lead Agency* means the Department of Transportation acting through the Federal Highway Administration.

(17) *Mobile home.* The term *mobile home* includes manufactured homes and recreational vehicles used as residences. (*See* appendix A, §24.2(a)(17)).

(18) *Mortgage.* The term *mortgage* means such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(19) *Nonprofit organization.* The term *nonprofit organization* means an organization that is incorporated under the applicable laws of a State as a nonprofit organization, and exempt from paying Federal income taxes under section 501 of the Internal Revenue Code (26 U.S.C. 501).

(20) *Owner of a dwelling.* The term *owner of a dwelling* means a person who is considered to have met the requirement to own a dwelling if the person purchases or holds any of the following interests in real property:

(i) Fee title, a life estate, a land contract, a 99 year lease, or a lease including any options for extension with at least 50 years to run from the date of acquisition; or

(ii) An interest in a cooperative housing project which includes the right to occupy a dwelling; or

(iii) A contract to purchase any of the interests or estates described in §24.2(a)(1)(i) or (ii) of this section; or

(iv) Any other interest, including a partial interest, which in the judgment of the Agency warrants consideration as ownership.

(21) *Person.* The term *person* means any individual, family, partnership, corporation, or association.

(22) *Program or project.* The phrase *program or project* means any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding Agency guidelines.

(23) *Salvage value.* The term *salvage value* means the probable sale price of an item offered for sale to knowledgeable buyers with the requirement that it be removed from the property at a buyer's expense (i.e., not eligible for relocation assistance). This includes items for re-use as well as items with components that can be re-used or recycled when there is no reasonable prospect for sale except on this basis.

(24) *Small business.* A *small business* is a business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a business for purposes of §24.304.

(25) *State.* Any of the several States of the United States or the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or a political subdivision of any of these jurisdictions.

(26) *Tenant.* The term *tenant* means a person who has the temporary use and occupancy of real property owned by another.

(27) *Uneconomic remnant.* The term *uneconomic remnant* means a parcel of real property in which the owner is left with an interest after the partial acquisition of the owner's property, and which the Agency has determined has little or no value or utility to the owner.

(28) *Uniform Act.* The term *Uniform Act* means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Pub. L. 91-646, 84 Stat. 1894; 42 U.S.C. 4601 *et seq.*), and amendments thereto.

(29) *Unlawful occupant.* A person who occupies without property right, title or payment of rent or a person legally evicted, with no legal rights to occupy a property under State law. An Agency, at its discretion, may consider such person to be in lawful occupancy.

(30) *Utility costs.* The term *utility costs* means expenses for electricity, gas, other heating and cooking fuels, water and sewer.

(31) *Utility facility.* The term *utility facility* means any electric, gas, water, steam power, or materials transmission or distribution system; any transportation system; any communications system, including cable television; and any fixtures, equipment, or other property associated with the operation, maintenance, or repair of any such system. A utility facility may be publicly, privately, or cooperatively owned.

(32) *Utility relocation.* The term *utility relocation* means the adjustment of a utility facility required by the program or project undertaken by the displacing Agency. It includes removing and reinstalling the facility, including necessary temporary facilities; acquiring necessary right-of-way on a new location; moving, rearranging or changing the type of existing facilities; and taking any necessary safety and protective measures. It shall also mean constructing a replacement facility that has the functional equivalency of the existing facility and is necessary for the continued operation of the utility service, the project economy, or sequence of project construction.

(33) *Waiver valuation.* The term *waiver valuation* means the valuation process used and the product produced when the Agency determines that an appraisal is not required, pursuant to §24.102(c)(2) appraisal waiver provisions.

(b) *Acronyms.* The following acronyms are commonly used in the implementation of programs subject to this regulation:

(1) BCIS. Bureau of Citizenship and Immigration Service.

(2) FEMA. Federal Emergency Management Agency.

(3) FHA. Federal Housing Administration.

(4) FHWA. Federal Highway Administration.

(5) FIRREA. Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(6) HLR. Housing of last resort.

(7) HUD. U.S. Department of Housing and Urban Development.

(8) MIDP. Mortgage interest differential payment.

(9) RHP. Replacement housing payment.

(10) STURAA. Surface Transportation and Uniform Relocation Act Amendments of 1987.

(11) URA. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

(12) USDOT. U.S. Department of Transportation.

(13) USPAP. Uniform Standards of Professional Appraisal Practice.

Back to Top

§24.3 No duplication of payments.

No person shall receive any payment under this part if that person receives a payment under Federal, State, local law, or insurance proceeds which is determined by the Agency to have the same purpose and effect as such payment under this part. (See appendix A, §24.3).

Back to Top

§24.4 Assurances, monitoring and corrective action.

(a) *Assurances.* (1) Before a Federal Agency may approve any grant to, or contract, or agreement with, a State Agency under which Federal financial assistance will be made available for a project which results in real property acquisition or displacement that is subject to the Uniform Act, the State Agency must provide appropriate assurances that it will comply with the Uniform Act and this part. A displacing Agency's assurances shall be in accordance with section 210 of the Uniform Act. An acquiring Agency's assurances shall be in accordance with section 305 of the Uniform Act and must contain specific reference to any State law which the Agency believes provides an exception to §§301 or 302 of the Uniform Act. If, in the judgment of the Federal Agency, Uniform Act compliance will be served, a State Agency may provide these assurances at one time to cover all subsequent federally-assisted programs or projects. An Agency, which both acquires real property and displaces persons, may combine its section 210 and section 305 assurances in one document.

(2) If a Federal Agency or State Agency provides Federal financial assistance to a “person” causing displacement, such Federal or State Agency is responsible for ensuring compliance with the requirements of this part, notwithstanding the person's contractual obligation to the grantee to comply.

(3) As an alternative to the assurance requirement described in paragraph (a)(1) of this section, a Federal Agency may provide Federal financial assistance to a State Agency after it has accepted a certification by such State Agency in accordance with the requirements in subpart G of this part.

(b) *Monitoring and corrective action.* The Federal Agency will monitor compliance with this part, and the State Agency shall take whatever corrective action is necessary to comply with the Uniform Act and this part. The Federal Agency may also apply sanctions in accordance with applicable program regulations. (Also see §24.603, of this part).

(c) *Prevention of fraud, waste, and mismanagement.* The Agency shall take appropriate measures to carry out this part in a manner that minimizes fraud, waste, and mismanagement.

Back to Top

§24.5 Manner of notices.

Each notice which the Agency is required to provide to a property owner or occupant under this part, except the notice described at §24.102(b), shall be personally served or sent by certified or registered first-class mail, return receipt requested, and documented in Agency files. Each notice shall be written in plain, understandable language. Persons who are unable to read and understand the notice must be provided with appropriate translation and counseling. Each notice shall indicate the name and telephone number of a person who may be contacted for answers to questions or other needed help.

Back to Top

§24.6 Administration of jointly-funded projects.

Whenever two or more Federal Agencies provide financial assistance to an Agency or Agencies, other than a Federal Agency, to carry out functionally or geographically related activities, which will result in the acquisition of property or the displacement of a person, the Federal Agencies may by agreement designate one such Agency as the cognizant Federal Agency. In the unlikely event that agreement among the Agencies cannot be reached as to which Agency shall be the cognizant Federal Agency, then the Lead Agency shall designate one of such Agencies to assume the cognizant role. At a minimum, the agreement shall set forth the federally-assisted activities which are subject to its terms and cite any policies and procedures, in addition to this part, that are applicable to the activities under the agreement. Under the agreement, the cognizant Federal Agency shall assure that the project is in compliance with the provisions of the Uniform Act and this part. All federally-assisted activities under the agreement shall be deemed a project for the purposes of this part.

Back to Top

§24.7 Federal Agency waiver of regulations.

The Federal Agency funding the project may waive any requirement in this part not required by law if it determines that the waiver does not reduce any assistance or protection provided to an owner or displaced person under this part. Any request for a waiver shall be justified on a case-by-case basis.

Back to Top

§24.8 Compliance with other laws and regulations.

The implementation of this part must be in compliance with other applicable Federal laws and implementing regulations, including, but not limited to, the following:

(a) Section I of the Civil Rights Act of 1866 (42 U.S.C. 1982 *et seq.*).

(b) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*).

(c) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), as amended.

(d) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

(e) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 790 *et seq.*).

(f) The Flood Disaster Protection Act of 1973 (Pub. L. 93-234).

(g) The Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*).

(h) Executive Order 11063—Equal Opportunity and Housing, as amended by Executive Order 12892.

(i) Executive Order 11246—Equal Employment Opportunity, as amended.

(j) Executive Order 11625—Minority Business Enterprise.

(k) Executive Orders 11988—Floodplain Management, and 11990—Protection of Wetlands.

(l) Executive Order 12250—Leadership and Coordination of Non-Discrimination Laws.

(m) Executive Order 12630—Governmental Actions and Interference with Constitutionally Protected Property Rights.

(n) Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121 *et seq.*).

(o) Executive Order 12892—Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing (January 17, 1994).

Back to Top

§24.9 Recordkeeping and reports.

(a) *Records.* The Agency shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this part. These records shall be retained for at least 3 years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled under this part, or in accordance with the applicable regulations of the Federal funding Agency, whichever is later.

(b) *Confidentiality of records.* Records maintained by an Agency in accordance with this part are confidential regarding their use as public information, unless applicable law provides otherwise.

(c) *Reports.* The Agency shall submit a report of its real property acquisition and displacement activities under this part if required by the Federal Agency funding the project. A report will not be required more frequently than every 3 years, or as the Uniform Act provides, unless the Federal funding Agency shows good cause. The report shall be prepared and submitted using the format contained in appendix B of this part.

Back to Top

§24.10 Appeals.

(a) *General.* The Agency shall promptly review appeals in accordance with the requirements of applicable law and this part.

(b) *Actions which may be appealed.* Any aggrieved person may file a written appeal with the Agency in any case in which the person believes that the Agency has failed to properly consider the person's application for assistance under this part. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment required under §24.106 or §24.107, or a relocation payment required under this part. The Agency shall consider a written appeal regardless of form.

(c) *Time limit for initiating appeal.* The Agency may set a reasonable time limit for a person to file an appeal. The time limit shall not be less than 60 days after the person receives written notification of the Agency's determination on the person's claim.

(d) *Right to representation.* A person has a right to be represented by legal counsel or other representative in connection with his or her appeal, but solely at the person's own expense.

(e) *Review of files by person making appeal.* The Agency shall permit a person to inspect and copy all materials pertinent to his or her appeal, except materials which are classified as confidential by the Agency. The Agency may, however, impose reasonable conditions on the person's right to inspect, consistent with applicable laws.

(f) *Scope of review of appeal.* In deciding an appeal, the Agency shall consider all pertinent justification and other material submitted by the person, and all other available information that is needed to ensure a fair and full review of the appeal.

(g) *Determination and notification after appeal.* Promptly after receipt of all information submitted by a person in support of an appeal, the Agency shall make a written determination on the appeal, including an explanation of the basis on which the decision was made, and furnish the person a copy. If the full relief requested is not granted, the Agency shall advise the person of his or her right to seek judicial review of the Agency decision.

(h) *Agency official to review appeal.* The Agency official conducting the review of the appeal shall be either the head of the Agency or his or her authorized designee. However, the official shall not have been directly involved in the action appealed.

Back to Top

Subpart B—Real Property Acquisition

Back to Top

§24.101 Applicability of acquisition requirements.

(a) *Direct Federal program or project.* (1) The requirements of this subpart apply to any acquisition of real property for a direct Federal program or project, except acquisition for a program or project that is undertaken by the Tennessee Valley Authority or the Rural Utilities Service. (*See* appendix A, §24.101(a).)

(2) If a Federal Agency (except for the Tennessee Valley Authority or the Rural Utilities Service) will not acquire a property because negotiations fail to result in an agreement, the owner of the property shall be so informed in writing. Owners of such properties are not displaced persons, (*see* §§24.2(a)(9)(ii)(E) or (H)), and as such, are not entitled to relocation assistance benefits. However, tenants on such properties may be eligible for relocation assistance benefits. (*See* §24.2(a)(9)).

(b) *Programs and projects receiving Federal financial assistance.* The requirements of this subpart apply to any acquisition of real property for programs and projects where there is Federal financial assistance in any part of project costs except for the acquisitions described in paragraphs (b)(1) through (5) of this section. The relocation assistance provisions in this part are applicable to any tenants that must move as a result of an acquisition described in paragraphs (b)(1) through (5) of this section. Such tenants are considered displaced persons. (*See* §24.2(a)(9).)

(1) The requirements of Subpart B do not apply to acquisitions that meet all of the following conditions in paragraphs (b)(1)(i) through (iv):

(i) No specific site or property needs to be acquired, although the Agency may limit its search for alternative sites to a general geographic area. Where an Agency wishes to purchase more than one site within a general geographic area on this basis, all owners are to be treated similarly. (*See* appendix A, §24.101(b)(1)(i).)

(ii) The property to be acquired is not part of an intended, planned, or designated project area where all or substantially all of the property within the area is to be acquired within specific time limits.

(iii) The Agency will not acquire the property if negotiations fail to result in an amicable agreement, and the owner is so informed in writing.

(iv) The Agency will inform the owner in writing of what it believes to be the market value of the property. (*See* appendix A, §24.101(b)(1)(iv) and (2)(ii).)

(2) Acquisitions for programs or projects undertaken by an Agency or person that receives Federal financial assistance but does not have authority to acquire property by eminent domain, provided that such Agency or person shall:

(i) Prior to making an offer for the property, clearly advise the owner that it is unable to acquire the property if negotiations fail to result in an agreement; and

(ii) Inform the owner in writing of what it believes to be the market value of the property. (*See* appendix A, §24.101(b)(1)(iv) and (2)(ii).)

(3) The acquisition of real property from a Federal Agency, State, or State Agency, if the Agency desiring to make the purchase does not have authority to acquire the property through condemnation.

(4) The acquisition of real property by a cooperative from a person who, as a condition of membership in the cooperative, has agreed to provide without charge any real property that is needed by the cooperative.

(5) Acquisition for a program or project that receives Federal financial assistance from the Tennessee Valley Authority or the Rural Utilities Service.

(c) *Less-than-full-fee interest in real property.* (1) The provisions of this subpart apply when acquiring fee title subject to retention of a life estate or a life use; to acquisition by leasing where the lease term, including option(s) for extension, is 50 years or more; and to the acquisition of permanent and/or temporary easements necessary for the project. However, the Agency may apply these regulations to any less-than-full-fee acquisition that, in its judgment, should be covered.

(2) The provisions of this subpart do not apply to temporary easements or permits needed solely to perform work intended exclusively for the benefit of the property owner, which work may not be done if agreement cannot be reached.

(d) *Federally-assisted projects.* For projects receiving Federal financial assistance, the provisions of §§24.102, 24.103, 24.104, and 24.105 apply to the greatest extent practicable under State law. (*See* §24.4(a).)

Back to Top

§24.102 Basic acquisition policies.

(a) *Expeditious acquisition.* The Agency shall make every reasonable effort to acquire the real property expeditiously by negotiation.

(b) *Notice to owner.* As soon as feasible, the Agency shall notify the owner in writing of the Agency's interest in acquiring the real property and the basic protections provided to the owner by law and this part. (*See* §24.203.)

(c) *Appraisal, waiver thereof, and invitation to owner.* (1) Before the initiation of negotiations the real property to be acquired shall be appraised, except as provided in §24.102 (c)(2), and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during the appraiser's inspection of the property.

(2) An appraisal is not required if:

(i) The owner is donating the property and releases the Agency from its obligation to appraise the property; or

(ii) The Agency determines that an appraisal is unnecessary because the valuation problem is uncomplicated and the anticipated value of the proposed acquisition is estimated at $10,000 or less, based on a review of available data.

(A) When an appraisal is determined to be unnecessary, the Agency shall prepare a waiver valuation.

(B) The person performing the waiver valuation must have sufficient understanding of the local real estate market to be qualified to make the waiver valuation.

(C) The Federal Agency funding the project may approve exceeding the $10,000 threshold, up to a maximum of $25,000, if the Agency acquiring the real property offers the property owner the option of having the Agency appraise the property. If the property owner elects to have the Agency appraise the property, the Agency shall obtain an appraisal and not use procedures described in this paragraph. (See appendix A, §24.102(c)(2).)

(d) *Establishment and offer of just compensation.* Before the initiation of negotiations, the Agency shall establish an amount which it believes is just compensation for the real property. The amount shall not be less than the approved appraisal of the fair market value of the property, taking into account the value of allowable damages or benefits to any remaining property. An Agency official must establish the amount believed to be just compensation. (*See* §24.104.) Promptly thereafter, the Agency shall make a written offer to the owner to acquire the property for the full amount believed to be just compensation. (*See* appendix A, §24.102(d).)

(e) *Summary statement.* Along with the initial written purchase offer, the owner shall be given a written statement of the basis for the offer of just compensation, which shall include:

(1) A statement of the amount offered as just compensation. In the case of a partial acquisition, the compensation for the real property to be acquired and the compensation for damages, if any, to the remaining real property shall be separately stated.

(2) A description and location identification of the real property and the interest in the real property to be acquired.

(3) An identification of the buildings, structures, and other improvements (including removable building equipment and trade fixtures) which are included as part of the offer of just compensation. Where appropriate, the statement shall identify any other separately held ownership interest in the property, *e.g.*, a tenant-owned improvement, and indicate that such interest is not covered by this offer.

(f) *Basic negotiation procedures.* The Agency shall make all reasonable efforts to contact the owner or the owner's representative and discuss its offer to purchase the property, including the basis for the offer of just compensation and explain its acquisition policies and procedures, including its payment of incidental expenses in accordance with §24.106. The owner shall be given reasonable opportunity to consider the offer and present material which the owner believes is relevant to determining the value of the property and to suggest modification in the proposed terms and conditions of the purchase. The Agency shall consider the owner's presentation. (*See* appendix A, §24.102(f).)

(g) *Updating offer of just compensation.* If the information presented by the owner, or a material change in the character or condition of the property, indicates the need for new appraisal information, or if a significant delay has occurred since the time of the appraisal(s) of the property, the Agency shall have the appraisal(s) updated or obtain a new appraisal(s). If the latest appraisal information indicates that a change in the purchase offer is warranted, the Agency shall promptly reestablish just compensation and offer that amount to the owner in writing.

(h) *Coercive action.* The Agency shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action in order to induce an agreement on the price to be paid for the property.

(i) *Administrative settlement.* The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed and an authorized Agency official approves such administrative settlement as being reasonable, prudent, and in the public interest. When Federal funds pay for or participate in acquisition costs, a written justification shall be prepared, which states what available information, including trial risks, supports such a settlement. (*See* appendix A, §24.102(i).)

(j) *Payment before taking possession.* Before requiring the owner to surrender possession of the real property, the Agency shall pay the agreed purchase price to the owner, or in the case of a condemnation, deposit with the court, for the benefit of the owner, an amount not less than the Agency's approved appraisal of the fair market value of such property, or the court award of compensation in the condemnation proceeding for the property. In exceptional circumstances, with the prior approval of the

owner, the Agency may obtain a right-of-entry for construction purposes before making payment available to an owner. (*See* appendix A, §24.102(j).)

(k) *Uneconomic remnant.* If the acquisition of only a portion of a property would leave the owner with an uneconomic remnant, the Agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. (*See* §24.2(a)(27).)

(l) *Inverse condemnation.* If the Agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for the owner to institute legal proceedings to prove the fact of the taking of the real property.

(m) *Fair rental.* If the Agency permits a former owner or tenant to occupy the real property after acquisition for a short term, or a period subject to termination by the Agency on short notice, the rent shall not exceed the fair market rent for such occupancy. (*See* appendix A, §24.102(m).)

(n) *Conflict of interest.* (1) The appraiser, review appraiser or person performing the waiver valuation shall not have any interest, direct or indirect, in the real property being valued for the Agency.

Compensation for making an appraisal or waiver valuation shall not be based on the amount of the valuation estimate.

(2) No person shall attempt to unduly influence or coerce an appraiser, review appraiser, or waiver valuation preparer regarding any valuation or other aspect of an appraisal, review or waiver valuation. Persons functioning as negotiators may not supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work, except that, for a program or project receiving Federal financial assistance, the Federal funding Agency may waive this requirement if it determines it would create a hardship for the Agency.

(3) An appraiser, review appraiser, or waiver valuation preparer making an appraisal, appraisal review or waiver valuation may be authorized by the Agency to act as a negotiator for real property for which that person has made an appraisal, appraisal review or waiver valuation only if the offer to acquire the property is $10,000, or less. (*See* appendix A, §24.102(n).)

[70 FR 611, Jan. 4, 2005, as amended at 70 FR 22611, May 2, 2005]

Back to Top

§24.103 Criteria for appraisals.

(a) *Appraisal requirements.* This section sets forth the requirements for real property acquisition appraisals for Federal and federally-assisted programs. Appraisals are to be prepared according to these requirements, which are intended to be consistent with the Uniform Standards of Professional Appraisal Practice (USPAP).[1] (*See* appendix A, §24.103(a).) The Agency may have appraisal requirements that supplement these requirements, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition (UASFLA).[2]

[1]Uniform Standards of Professional Appraisal Practice (USPAP). Published by The Appraisal Foundation, a nonprofit educational organization. Copies may be ordered from The Appraisal Foundation at the following URL: *http://www.appraisalfoundation.org/htm/USPAP2004/toc.htm.*

[2]The "Uniform Appraisal Standards for Federal Land Acquisitions" is published by the Interagency Land Acquisition Conference. It is a compendium of Federal eminent domain appraisal law, both case and statute, regulations and practices. It is available at *http://www.usdoj.gov/enrd/land-ack/toc.htm* or in soft cover format from the Appraisal Institute at *http://www.appraisalinstitute.org/econom/publications/Default.asp* and select "Legal/Regulatory" or call 888-570-4545.

(1) The Agency acquiring real property has a legitimate role in contributing to the appraisal process, especially in developing the scope of work and defining the appraisal problem. The scope of work and development of an appraisal under these requirements depends on the complexity of the appraisal problem.

(2) The Agency has the responsibility to assure that the appraisals it obtains are relevant to its program needs, reflect established and commonly accepted Federal and federally-assisted program appraisal practice, and as a minimum, complies with the definition of appraisal in §24.2(a)(3) and the five following requirements: (*See* appendix A, §§24.103 and 24.103(a).)

(i) An adequate description of the physical characteristics of the property being appraised (and, in the case of a partial acquisition, an adequate description of the remaining property), including items identified as personal property, a statement of the known and observed encumbrances, if any, title information, location, zoning, present use, an analysis of highest and best use, and at least a 5-year sales history of the property. (*See* appendix A, §24.103(a)(1).)

(ii) All relevant and reliable approaches to value consistent with established Federal and federally-assisted program appraisal practices. If the appraiser uses more than one approach, there shall be an analysis and reconciliation of approaches to value used that is sufficient to support the appraiser's opinion of value. (*See* appendix A, §24.103(a).)

(iii) A description of comparable sales, including a description of all relevant physical, legal, and economic factors such as parties to the transaction, source and method of financing, and verification by a party involved in the transaction.

(iv) A statement of the value of the real property to be acquired and, for a partial acquisition, a statement of the value of the damages and benefits, if any, to the remaining real property, where appropriate.

(v) The effective date of valuation, date of appraisal, signature, and certification of the appraiser.

(b) *Influence of the project on just compensation.* The appraiser shall disregard any decrease or increase in the fair market value of the real property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project, other than that due to physical deterioration within the reasonable control of the owner. (*See* appendix A, §24.103(b).)

(c) *Owner retention of improvements.* If the owner of a real property improvement is permitted to retain it for removal from the project site, the amount to be offered for the interest in the real property to be acquired shall be not less than the difference between the amount determined to be just compensation for the owner's entire interest in the real property and the salvage value (defined at §24.2(a)(24)) of the retained improvement.

(d) *Qualifications of appraisers and review appraisers.* (1) The Agency shall establish criteria for determining the minimum qualifications and competency of appraisers and review appraisers. Qualifications shall be consistent with the scope of work for the assignment. The Agency shall review the experience, education, training, certification/licensing, designation(s) and other qualifications of appraisers, and review appraisers, and use only those determined by the Agency to be qualified. (*See* appendix A, §24.103(d)(1).)

(2) If the Agency uses a contract (fee) appraiser to perform the appraisal, such appraiser shall be State licensed or certified in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 *et seq.*).

[70 FR 611, Jan. 4, 2005, as amended at 70 FR 22611, May 2, 2005]

Back to Top

§24.104 Review of appraisals.

The Agency shall have an appraisal review process and, at a minimum:

(a) A qualified review appraiser (*see* §24.103(d)(1) and appendix A, §24.104) shall examine the presentation and analysis of market information in all appraisals to assure that they meet the definition of appraisal found in 49 CFR 24.2(a)(3), appraisal requirements found in 49 CFR 24.103 and other applicable requirements, including, to the extent appropriate, the UASFLA, and support the appraiser's opinion of value. The level of review analysis depends on the complexity of the appraisal problem. As needed, the review appraiser shall, prior to acceptance, seek necessary corrections or revisions. The review appraiser shall identify each appraisal report as recommended (as the basis for the establishment of the amount believed to be just compensation), accepted (meets all requirements, but not selected as recommended or approved), or not accepted. If authorized by the Agency to do so, the staff review appraiser shall also approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), and, if also authorized to do so, develop and report the amount believed to be just compensation. (*See* appendix A, §24.104(a).)

(b) If the review appraiser is unable to recommend (or approve) an appraisal as an adequate basis for the establishment of the offer of just compensation, and it is determined by the acquiring Agency that it is not practical to obtain an additional appraisal, the review appraiser may, as part of the review, present and analyze market information in conformance with §24.103 to support a recommended (or approved) value. (*See* appendix A, §24.104(b).)

(c) The review appraiser shall prepare a written report that identifies the appraisal reports reviewed and documents the findings and conclusions arrived at during the review of the appraisal(s). Any damages or benefits to any remaining property shall be identified in the review appraiser's report. The review appraiser shall also prepare a signed certification that states the parameters of the review. The certification shall state the approved value, and, if the review appraiser is authorized to do so, the amount believed to be just compensation for the acquisition. (*See* appendix A, §24.104(c).)

Back to Top

§24.105 Acquisition of tenant-owned improvements.

(a) *Acquisition of improvements.* When acquiring any interest in real property, the Agency shall offer to acquire at least an equal interest in all buildings, structures, or other improvements located upon the real property to be acquired, which it requires to be removed or which it determines will be adversely affected by the use to which such real property will be put. This shall include any improvement of a tenant-owner who has the right or obligation to remove the improvement at the expiration of the lease term.

(b) *Improvements considered to be real property.* Any building, structure, or other improvement, which would be considered to be real property if owned by the owner of the real property on which it is located, shall be considered to be real property for purposes of this subpart.

(c) *Appraisal and Establishment of Just Compensation for a Tenant-Owned Improvement.* Just compensation for a tenant-owned improvement is the amount which the improvement contributes to the fair market value of the whole property, or its salvage value, whichever is greater. (Salvage value is defined at §24.2(a)(23).)

(d) *Special conditions for tenant-owned improvements.* No payment shall be made to a tenant-owner for any real property improvement unless:

(1) The tenant-owner, in consideration for the payment, assigns, transfers, and releases to the Agency all of the tenant-owner's right, title, and interest in the improvement;

(2) The owner of the real property on which the improvement is located disclaims all interest in the improvement; and

(3) The payment does not result in the duplication of any compensation otherwise authorized by law.

(e) *Alternative compensation.* Nothing in this subpart shall be construed to deprive the tenant-owner of any right to reject payment under this subpart and to obtain payment for such property interests in accordance with other applicable law.

[70 FR 611, Jan. 4, 2005, as amended at 70 FR 22611, May 2, 2005]

Back to Top

§24.106 Expenses incidental to transfer of title to the Agency.

(a) The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:

(1) Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the Agency. However, the Agency is not required to pay costs solely required to perfect the owner's title to the real property;

(2) Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and

(3) The pro rata portion of any prepaid real property taxes which are allocable to the period after the Agency obtains title to the property or effective possession of it, whichever is earlier.

(b) Whenever feasible, the Agency shall pay these costs directly to the billing agent so that the owner will not have to pay such costs and then seek reimbursement from the Agency.

Back to Top

§24.107 Certain litigation expenses.

The owner of the real property shall be reimbursed for any reasonable expenses, including reasonable attorney, appraisal, and engineering fees, which the owner actually incurred because of a condemnation proceeding, if:

(a) The final judgment of the court is that the Agency cannot acquire the real property by condemnation;

(b) The condemnation proceeding is abandoned by the Agency other than under an agreed-upon settlement; or

(c) The court having jurisdiction renders a judgment in favor of the owner in an inverse condemnation proceeding or the Agency effects a settlement of such proceeding.

Back to Top

§24.108 Donations.

An owner whose real property is being acquired may, after being fully informed by the Agency of the right to receive just compensation for such property, donate such property or any part thereof, any interest therein, or any compensation paid therefore, to the Agency as such owner shall determine. The Agency is responsible for ensuring that an appraisal of the real property is obtained unless the owner releases the Agency from such obligation, except as provided in §24.102(c)(2).

Back to Top

Subpart C—General Relocation Requirements

Back to Top

§24.201 Purpose.

This subpart prescribes general requirements governing the provision of relocation payments and other relocation assistance in this part.

Back to Top

§24.202 Applicability.

These requirements apply to the relocation of any displaced person as defined at §24.2(a)(9). Any person who qualifies as a displaced person must be fully informed of his or her rights and entitlements to relocation assistance and payments provided by the Uniform Act and this regulation. (*See* appendix A, §24.202.)

Back to Top

§24.203 Relocation notices.

(a) *General information notice.* As soon as feasible, a person scheduled to be displaced shall be furnished with a general written description of the displacing Agency's relocation program which does at least the following:

(1) Informs the person that he or she may be displaced for the project and generally describes the relocation payment(s) for which the person may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s);

(2) Informs the displaced person that he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the displaced person successfully relocate;

(3) Informs the displaced person that he or she will not be required to move without at least 90 days advance written notice (see paragraph (c) of this section), and informs any person to be displaced from a dwelling that he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available;

(4) Informs the displaced person that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child, as defined in §24.208(h); and

(5) Describes the displaced person's right to appeal the Agency's determination as to a person's application for assistance for which a person may be eligible under this part.

(b) *Notice of relocation eligibility.* Eligibility for relocation assistance shall begin on the date of a notice of intent to acquire (described in §24.203(d)), the initiation of negotiations (defined in §24.2(a)(15)), or actual acquisition, whichever occurs first. When this occurs, the Agency shall promptly notify all occupants in writing of their eligibility for applicable relocation assistance.

(c) *Ninety-day notice*—(1) *General.* No lawful occupant shall be required to move unless he or she has received at least 90 days advance written notice of the earliest date by which he or she may be required to move.

(2) *Timing of notice.* The displacing Agency may issue the notice 90 days or earlier before it expects the person to be displaced.

(3) *Content of notice.* The 90-day notice shall either state a specific date as the earliest date by which the occupant may be required to move, or state that the occupant will receive a further notice indicating, at least 30 days in advance, the specific date by which he or she must move. If the 90-day notice is issued before a comparable replacement dwelling is made available, the notice must state clearly that the occupant will not have to move earlier than 90 days after such a dwelling is made available. (*See* §24.204(a).)

(4) *Urgent need.* In unusual circumstances, an occupant may be required to vacate the property on less than 90 days advance written notice if the displacing Agency determines that a 90-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to health or safety. A copy of the Agency's determination shall be included in the applicable case file.

(d) *Notice of intent to acquire.* A notice of intent to acquire is a displacing Agency's written communication that is provided to a person to be displaced, including those to be displaced by rehabilitation or demolition activities from property acquired prior to the commitment of Federal financial assistance to the activity, which clearly sets forth that the Agency intends to acquire the property. A notice of intent to acquire establishes eligibility for relocation assistance prior to the initiation of negotiations and/or prior to the commitment of Federal financial assistance. (*See* §24.2(a)(9)(i)(A).)

Back to Top

§24.204 Availability of comparable replacement dwelling before displacement.

(a) *General.* No person to be displaced shall be required to move from his or her dwelling unless at least one comparable replacement dwelling (defined at §24.2 (a)(6)) has been made available to the person. When possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person, if:

(1) The person is informed of its location;

(2) The person has sufficient time to negotiate and enter into a purchase agreement or lease for the property; and

(3) Subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

(b) *Circumstances permitting waiver.* The Federal Agency funding the project may grant a waiver of the policy in paragraph (a) of this section in any case where it is demonstrated that a person must move because of:

(1) A major disaster as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5122);

(2) A presidentially declared national emergency; or

(3) Another emergency which requires immediate vacation of the real property, such as when continued occupancy of the displacement dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

(c) *Basic conditions of emergency move.* Whenever a person to be displaced is required to relocate from the displacement dwelling for a temporary period because of an emergency as described in paragraph (b) of this section, the Agency shall:

(1) Take whatever steps are necessary to assure that the person is temporarily relocated to a decent, safe, and sanitary dwelling;

(2) Pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in rent and utility costs incurred in connection with the temporary relocation; and

(3) Make available to the displaced person as soon as feasible, at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the temporarily occupied dwelling.)

Back to Top

§24.205 Relocation planning, advisory services, and coordination.

(a) *Relocation planning.* During the early stages of development, an Agency shall plan Federal and federally-assisted programs or projects in such a manner that recognizes the problems associated with the displacement of individuals, families, businesses, farms, and nonprofit organizations and develop solutions to minimize the adverse impacts of displacement. Such planning, where appropriate, shall precede any action by an Agency which will cause displacement, and should be scoped to the complexity and nature of the anticipated displacing activity including an evaluation of program resources available to carry out timely and orderly relocations. Planning may involve a relocation survey or study, which may include the following:

(1) An estimate of the number of households to be displaced including information such as owner/tenant status, estimated value and rental rates of properties to be acquired, family characteristics, and special consideration of the impacts on minorities, the elderly, large families, and persons with disabilities when applicable.

(2) An estimate of the number of comparable replacement dwellings in the area (including price ranges and rental rates) that are expected to be available to fulfill the needs of those households displaced. When an adequate supply of comparable housing is not expected to be available, the Agency should consider housing of last resort actions.

(3) An estimate of the number, type and size of the businesses, farms, and nonprofit organizations to be displaced and the approximate number of employees that may be affected.

(4) An estimate of the availability of replacement business sites. When an adequate supply of replacement business sites is not expected to be available, the impacts of displacing the businesses should be considered and addressed. Planning for displaced businesses which are reasonably expected to involve complex or lengthy moving processes or small businesses with limited financial resources and/or few alternative relocation sites should include an analysis of business moving problems.

(5) Consideration of any special relocation advisory services that may be necessary from the displacing Agency and other cooperating Agencies.

(b) *Loans for planning and preliminary expenses.* In the event that an Agency elects to consider using the duplicative provision in section 215 of the Uniform Act which permits the use of project funds for loans to cover planning and other preliminary expenses for the development of additional housing, the Lead Agency will establish criteria and procedures for such use upon the request of the Federal Agency funding the program or project.

(c) *Relocation assistance advisory services*—(1) *General.* The Agency shall carry out a relocation assistance advisory program which satisfies the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 *et seq.*), and Executive Order 11063 (27 FR 11527, November 24, 1962), and offer the services described in paragraph (c)(2) of this section. If the Agency determines that a person occupying property adjacent to the real property acquired for the project is caused substantial economic injury because of such acquisition, it may offer advisory services to such person.

(2) *Services to be provided.* The advisory program shall include such measures, facilities, and services as may be necessary or appropriate in order to:

(i) Determine, for nonresidential (businesses, farm and nonprofit organizations) displacements, the relocation needs and preferences of each business (farm and nonprofit organization) to be displaced and explain the relocation payments and other assistance for which the business may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each business. At a minimum, interviews with displaced business owners and operators should include the following items:

(A) The business's replacement site requirements, current lease terms and other contractual obligations and the financial capacity of the business to accomplish the move.

(B) Determination of the need for outside specialists in accordance with §24.301(g)(12) that will be required to assist in planning the move, assistance in the actual move, and in the reinstallation of machinery and/or other personal property.

(C) For businesses, an identification and resolution of personalty/realty issues. Every effort must be made to identify and resolve realty/personalty issues prior to, or at the time of, the appraisal of the property.

(D) An estimate of the time required for the business to vacate the site.

(E) An estimate of the anticipated difficulty in locating a replacement property.

(F) An identification of any advance relocation payments required for the move, and the Agency's legal capacity to provide them.

(ii) Determine, for residential displacements, the relocation needs and preferences of each person to be displaced and explain the relocation payments and other assistance for which the person may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. This shall include a personal interview with each residential displaced person.

(A) Provide current and continuing information on the availability, purchase prices, and rental costs of comparable replacement dwellings, and explain that the person cannot be required to move unless at least one comparable replacement dwelling is made available as set forth in §24.204(a).

(B) As soon as feasible, the Agency shall inform the person in writing of the specific comparable replacement dwelling and the price or rent used for establishing the upper limit of the replacement housing payment (*see* §24.403 (a) and (b)) and the basis for the determination, so that the person is aware of the maximum replacement housing payment for which he or she may qualify.

(C) Where feasible, housing shall be inspected prior to being made available to assure that it meets applicable standards. (*See* §24.2(a)(8).) If such an inspection is not made, the Agency shall notify the person to be displaced that a replacement housing payment may not be made unless the replacement dwelling is subsequently inspected and determined to be decent, safe, and sanitary.

(D) Whenever possible, minority persons shall be given reasonable opportunities to relocate to decent, safe, and sanitary replacement dwellings, not located in an area of minority concentration, that are within their financial means. This policy, however, does not require an Agency to provide a person a larger payment than is necessary to enable a person to relocate to a comparable replacement dwelling. (*See* appendix A, §24.205(c)(2)(ii)(D).)

(E) The Agency shall offer all persons transportation to inspect housing to which they are referred.

(F) Any displaced person that may be eligible for government housing assistance at the replacement dwelling shall be advised of any requirements of such government housing assistance program that would limit the size of the replacement dwelling (*see* §24.2(a)(6)(ix)), as well as of the long term nature of such rent subsidy, and the limited (42 month) duration of the relocation rental assistance payment.

(iii) Provide, for nonresidential moves, current and continuing information on the availability, purchase prices, and rental costs of suitable commercial and farm properties and locations. Assist any person displaced from a business or farm operation to obtain and become established in a suitable replacement location.

(iv) Minimize hardships to persons in adjusting to relocation by providing counseling, advice as to other sources of assistance that may be available, and such other help as may be appropriate.

(v) Supply persons to be displaced with appropriate information concerning Federal and State housing programs, disaster loan and other programs administered by the Small Business Administration, and other Federal and State programs offering assistance to displaced persons, and technical help to persons applying for such assistance.

(d) *Coordination of relocation activities.* Relocation activities shall be coordinated with project work and other displacement-causing activities to ensure that, to the extent feasible, persons displaced receive consistent treatment and the duplication of functions is minimized. (*See* §24.6.)

(e) Any person who occupies property acquired by an Agency, when such occupancy began subsequent to the acquisition of the property, and the occupancy is permitted by a short term rental agreement or an agreement subject to termination when the property is needed for a program or project, shall be eligible for advisory services, as determined by the Agency.

Back to Top

§24.206 Eviction for cause.

(a) Eviction for cause must conform to applicable State and local law. Any person who occupies the real property and is not in unlawful occupancy on the date of the initiation of negotiations, is presumed to be entitled to relocation payments and other assistance set forth in this part unless the Agency determines that:

(1) The person received an eviction notice prior to the initiation of negotiations and, as a result of that notice is later evicted; or

(2) The person is evicted after the initiation of negotiations for serious or repeated violation of material terms of the lease or occupancy agreement; and

(3) In either case the eviction was not undertaken for the purpose of evading the obligation to make available the payments and other assistance set forth in this part.

(b) For purposes of determining eligibility for relocation payments, the date of displacement is the date the person moves, or if later, the date a comparable replacement dwelling is made available. This section applies only to persons who would otherwise have been displaced by the project. (*See* appendix A, §24.206.)

Back to Top

§24.207 General requirements—claims for relocation payments.

(a) *Documentation.* Any claim for a relocation payment shall be supported by such documentation as may be reasonably required to support expenses incurred, such as bills, certified prices, appraisals, or other evidence of such expenses. A displaced person must be provided reasonable assistance necessary to complete and file any required claim for payment.

(b) *Expeditious payments.* The Agency shall review claims in an expeditious manner. The claimant shall be promptly notified as to any additional documentation that is required to support the claim. Payment for a claim shall be made as soon as feasible following receipt of sufficient documentation to support the claim.

(c) *Advanced payments.* If a person demonstrates the need for an advanced relocation payment in order to avoid or reduce a hardship, the Agency shall issue the payment, subject to such safeguards as are appropriate to ensure that the objective of the payment is accomplished.

(d) *Time for filing.* (1) All claims for a relocation payment shall be filed with the Agency no later than 18 months after:

(i) For tenants, the date of displacement.

(ii) For owners, the date of displacement or the date of the final payment for the acquisition of the real property, whichever is later.

(2) The Agency shall waive this time period for good cause.

(e) *Notice of denial of claim.* If the Agency disapproves all or part of a payment claimed or refuses to consider the claim on its merits because of untimely filing or other grounds, it shall promptly notify the claimant in writing of its determination, the basis for its determination, and the procedures for appealing that determination.

(f) *No waiver of relocation assistance.* A displacing Agency shall not propose or request that a displaced person waive his or her rights or entitlements to relocation assistance and benefits provided by the Uniform Act and this regulation.

(g) *Expenditure of payments.* Payments, provided pursuant to this part, shall not be considered to constitute Federal financial assistance. Accordingly, this part does not apply to the expenditure of such payments by, or for, a displaced person.

Back to Top

§24.208 Aliens not lawfully present in the United States.

(a) Each person seeking relocation payments or relocation advisory assistance shall, as a condition of eligibility, certify:

(1) In the case of an individual, that he or she is either a citizen or national of the United States, or an alien who is lawfully present in the United States.

(2) In the case of a family, that each family member is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the head of the household on behalf of other family members.

(3) In the case of an unincorporated business, farm, or nonprofit organization, that each owner is either a citizen or national of the United States, or an alien who is lawfully present in the United States. The certification may be made by the principal owner, manager, or operating officer on behalf of other persons with an ownership interest.

(4) In the case of an incorporated business, farm, or nonprofit organization, that the corporation is authorized to conduct business within the United States.

(b) The certification provided pursuant to paragraphs (a)(1), (a)(2), and (a)(3) of this section shall indicate whether such person is either a citizen or national of the United States, or an alien who is lawfully present in the United States. Requirements concerning the certification in addition to those contained in this rule shall be within the discretion of the Federal funding Agency and, within those parameters, that of the displacing Agency.

(c) In computing relocation payments under the Uniform Act, if any member(s) of a household or owner(s) of an unincorporated business, farm, or nonprofit organization is (are) determined to be ineligible because of a failure to be legally present in the United States, no relocation payments may be made to him or her. Any payment(s) for which such household, unincorporated business, farm, or nonprofit organization would otherwise be eligible shall be computed for the household, based on the number of eligible household members and for the unincorporated business, farm, or nonprofit organization, based on the ratio of ownership between eligible and ineligible owners.

(d) The displacing Agency shall consider the certification provided pursuant to paragraph (a) of this section to be valid, unless the displacing Agency determines in accordance with paragraph (f) of this section that it is invalid based on a review of an alien's documentation or other information that the Agency considers reliable and appropriate.

(e) Any review by the displacing Agency of the certifications provided pursuant to paragraph (a) of this section shall be conducted in a nondiscriminatory fashion. Each displacing Agency will apply the same standard of review to all such certifications it receives, except that such standard may be revised periodically.

(f) If, based on a review of an alien's documentation or other credible evidence, a displacing Agency has reason to believe that a person's certification is invalid (for example a document reviewed does not on its face reasonably appear to be genuine), and that, as a result, such person may be an alien not lawfully present in the United States, it shall obtain the following information before making a final determination:

(1) If the Agency has reason to believe that the certification of a person who has certified that he or she is an alien lawfully present in the United States is invalid, the displacing Agency shall obtain verification of the alien's status from the local Bureau of Citizenship and Immigration Service (BCIS) Office. A list of local BCIS offices is available at *http://www.uscis.gov/graphics/fieldoffices/alphaa.htm.* Any request for BCIS verification shall include the alien's full name, date of birth and alien number, and a copy of the alien's documentation. (If an Agency is unable to contact the BCIS, it may contact the FHWA in Washington, DC, Office of Real Estate Services or Office of Chief Counsel for a referral to the BCIS.)

(2) If the Agency has reason to believe that the certification of a person who has certified that he or she is a citizen or national is invalid, the displacing Agency shall request evidence of United States citizenship or nationality from such person and, if considered necessary, verify the accuracy of such evidence with the issuer.

(g) No relocation payments or relocation advisory assistance shall be provided to a person who has not provided the certification described in this section or who has been determined to be not lawfully present in the United States, unless such person can demonstrate to the displacing Agency's satisfaction that the denial of relocation assistance will result in an exceptional and extremely unusual hardship to such person's spouse, parent, or child who is a citizen of the United States, or is an alien lawfully admitted for permanent residence in the United States.

(h) For purposes of paragraph (g) of this section, “exceptional and extremely unusual hardship” to such spouse, parent, or child of the person not lawfully present in the United States means that the denial of relocation payments and advisory assistance to such person will directly result in:

(1) A significant and demonstrable adverse impact on the health or safety of such spouse, parent, or child;

(2) A significant and demonstrable adverse impact on the continued existence of the family unit of which such spouse, parent, or child is a member; or

(3) Any other impact that the displacing Agency determines will have a significant and demonstrable adverse impact on such spouse, parent, or child.

(i) The certification referred to in paragraph (a) of this section may be included as part of the claim for relocation payments described in §24.207 of this part.

(Approved by the Office of Management and Budget under control number 2105-0508)

Back to Top

§24.209 Relocation payments not considered as income.

No relocation payment received by a displaced person under this part shall be considered as income for the purpose of the Internal Revenue Code of 1954, which has been redesignated as the Internal Revenue Code of 1986 (Title 26, U.S. Code), or for the purpose of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act (42 U.S. Code 301 *et seq.*) or any other Federal law, except for any Federal law providing low-income housing assistance.

Back to Top

Subpart D—Payments for Moving and Related Expenses

Back to Top

§24.301 Payment for actual reasonable moving and related expenses.

(a) *General.* (1) Any owner-occupant or tenant who qualifies as a displaced person (defined at §24.2(a)(9)) and who moves from a dwelling (including a mobile home) or who moves from a business, farm or nonprofit organization is entitled to payment of his or her actual moving and related expenses, as the Agency determines to be reasonable and necessary.

(2) A non-occupant owner of a rented mobile home is eligible for actual cost reimbursement under §24.301 to relocate the mobile home. If the mobile home is not acquired as real estate, but the homeowner-occupant obtains a replacement housing payment under one of the circumstances described at §24.502(a)(3), the home-owner occupant is not eligible for payment for moving the mobile home, but may be eligible for a payment for moving personal property from the mobile home.

(b) *Moves from a dwelling.* A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a dwelling may be determined based on the cost of one, or a combination of the following methods: (Eligible expenses for moves from a dwelling include the expenses described in paragraphs (g)(1) through (g)(7) of this section. Self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section.)

(1) *Commercial move*—moves performed by a professional mover.

(2) *Self-move*—moves that may be performed by the displaced person in one or a combination of the following methods:

(i) *Fixed Residential Moving Cost Schedule.* (Described in §24.302.)

(ii) *Actual cost move.* Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.

(c) *Moves from a mobile home.* A displaced person's actual, reasonable and necessary moving expenses for moving personal property from a mobile home may be determined based on the cost of one, or a combination of the following methods: (self-moves based on the lower of two bids or estimates are not eligible for reimbursement under this section. Eligible expenses for moves from a mobile home include those expenses described in paragraphs (g)(1) through (g)(7) of this section. In addition to the items in paragraph (a) of this section, the owner-occupant of a mobile home that is moved as personal property and used as the person's replacement dwelling, is also eligible for the moving expenses described in paragraphs (g)(8) through (g)(10) of this section.)

(1) *Commercial move*—moves performed by a professional mover.

(2) *Self-move*—moves that may be performed by the displaced person in one or a combination of the following methods:

(i) *Fixed Residential Moving Cost Schedule.* (Described in §24.302.)

(ii) *Actual cost move.* Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the cost paid by a commercial mover. Equipment rental fees should be based on the actual cost of renting the equipment but not exceed the cost paid by a commercial mover.

(d) *Moves from a business, farm or nonprofit organization.* Personal property as determined by an inventory from a business, farm or nonprofit organization may be moved by one or a combination of the following methods: (Eligible expenses for moves from a business, farm or nonprofit organization include those expenses described in paragraphs (g)(1) through (g)(7) of this section and paragraphs (g)(11) through (g)(18) of this section and §24.303.)

(1) *Commercial move.* Based on the lower of two bids or estimates prepared by a commercial mover. At the Agency's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate.

(2) *Self-move.* A self-move payment may be based on one or a combination of the following:

(i) The lower of two bids or estimates prepared by a commercial mover or qualified Agency staff person. At the Agency's discretion, payment for a low cost or uncomplicated move may be based on a single bid or estimate; or

(ii) Supported by receipted bills for labor and equipment. Hourly labor rates should not exceed the rates paid by a commercial mover to employees performing the same activity and, equipment rental fees should be based on the actual rental cost of the equipment but not to exceed the cost paid by a commercial mover.

(e) *Personal property only.* Eligible expenses for a person who is required to move personal property from real property but is not required to move from a dwelling (including a mobile home), business, farm or nonprofit organization include those expenses described in paragraphs (g)(1) through (g)(7) and (g)(18) of this section. (See appendix A, §24.301(e).)

(f) *Advertising signs.* The amount of a payment for direct loss of an advertising sign, which is personal property shall be the lesser of:

(1) The depreciated reproduction cost of the sign, as determined by the Agency, less the proceeds from its sale; or

(2) The estimated cost of moving the sign, but with no allowance for storage.

(g) *Eligible actual moving expenses.* (1) Transportation of the displaced person and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the Agency determines that relocation beyond 50 miles is justified.

(2) Packing, crating, unpacking, and uncrating of the personal property.

(3) Disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property. For businesses, farms or nonprofit organizations this includes machinery, equipment, substitute personal property, and connections to utilities available within the building; it also includes modifications to the personal property, including those mandated by Federal, State or local law, code or ordinance, necessary to adapt it to the replacement structure, the replacement site, or the utilities at the replacement site, and modifications necessary to adapt the utilities at the replacement site to the personal property.

(4) Storage of the personal property for a period not to exceed 12 months, unless the Agency determines that a longer period is necessary.

(5) Insurance for the replacement value of the property in connection with the move and necessary storage.

(6) The replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.

(7) Other moving-related expenses that are not listed as ineligible under §24.301(h), as the Agency determines to be reasonable and necessary.

(8) The reasonable cost of disassembling, moving, and reassembling any appurtenances attached to a mobile home, such as porches, decks, skirting, and awnings, which were not acquired, anchoring of the unit, and utility “hookup” charges.

(9) The reasonable cost of repairs and/or modifications so that a mobile home can be moved and/or made decent, safe, and sanitary.

(10) The cost of a nonrefundable mobile home park entrance fee, to the extent it does not exceed the fee at a comparable mobile home park, if the person is displaced from a mobile home park or the Agency determines that payment of the fee is necessary to effect relocation.

(11) Any license, permit, fees or certification required of the displaced person at the replacement location. However, the payment may be based on the remaining useful life of the existing license, permit, fees or certification.

(12) Professional services as the Agency determines to be actual, reasonable and necessary for:

(i) Planning the move of the personal property;

(ii) Moving the personal property; and

(iii) Installing the relocated personal property at the replacement location.

(13) Relettering signs and replacing stationery on hand at the time of displacement that are made obsolete as a result of the move.

(14) Actual direct loss of tangible personal property incurred as a result of moving or discontinuing the business or farm operation. The payment shall consist of the lesser of:

(i) The fair market value in place of the item, as is for continued use, less the proceeds from its sale. (To be eligible for payment, the claimant must make a good faith effort to sell the personal property, unless the Agency determines that such effort is not necessary. When payment for property loss is claimed for goods held for sale, the fair market value shall be based on the cost of the goods to the business, not the potential selling prices.); or

(ii) The estimated cost of moving the item as is, but not including any allowance for storage; or for reconnecting a piece of equipment if the equipment is in storage or not being used at the acquired site. (See appendix A, §24.301(g)(14)(i) and (ii).) If the business or farm operation is discontinued, the estimated cost of moving the item shall be based on a moving distance of 50 miles.

(15) The reasonable cost incurred in attempting to sell an item that is not to be relocated.

(16) *Purchase of substitute personal property.* If an item of personal property, which is used as part of a business or farm operation is not moved but is promptly replaced with a substitute item that performs a comparable function at the replacement site, the displaced person is entitled to payment of the lesser of:

(i) The cost of the substitute item, including installation costs of the replacement site, minus any proceeds from the sale or trade-in of the replaced item; or

(ii) The estimated cost of moving and reinstalling the replaced item but with no allowance for storage. At the Agency's discretion, the estimated cost for a low cost or uncomplicated move may be based on a single bid or estimate.

(17) Searching for a replacement location. A business or farm operation is entitled to reimbursement for actual expenses, not to exceed $2,500, as the Agency determines to be reasonable, which are incurred in searching for a replacement location, including:

(i) Transportation;

(ii) Meals and lodging away from home;

(iii) Time spent searching, based on reasonable salary or earnings;

(iv) Fees paid to a real estate agent or broker to locate a replacement site, exclusive of any fees or commissions related to the purchase of such sites;

(v) Time spent in obtaining permits and attending zoning hearings; and

(vi) Time spent negotiating the purchase of a replacement site based on a reasonable salary or earnings.

(18) *Low value/high bulk.* When the personal property to be moved is of low value and high bulk, and the cost of moving the property would be disproportionate to its value in the judgment of the displacing Agency, the allowable moving cost payment shall not exceed the lesser of: The amount which would be received if the property were sold at the site or the replacement cost of a comparable quantity delivered to the new business location. Examples of personal property covered by this provision include, but are not limited to, stockpiled sand, gravel, minerals, metals and other similar items of personal property as determined by the Agency.

(h) *Ineligible moving and related expenses.* A displaced person is not entitled to payment for:

(1) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership. (However, this part does not preclude the computation under §24.401(c)(2)(iii));

(2) Interest on a loan to cover moving expenses;

(3) Loss of goodwill;

(4) Loss of profits;

(5) Loss of trained employees;

(6) Any additional operating expenses of a business or farm operation incurred because of operating in a new location except as provided in §24.304(a)(6);

(7) Personal injury;

(8) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the Agency;

(9) Expenses for searching for a replacement dwelling;

(10) Physical changes to the real property at the replacement location of a business or farm operation except as provided in §§24.301(g)(3) and 24.304(a);

(11) Costs for storage of personal property on real property already owned or leased by the displaced person, and

(12) Refundable security and utility deposits.

(i) *Notification and inspection (nonresidential).* The Agency shall inform the displaced person, in writing, of the requirements of this section as soon as possible after the initiation of negotiations. This information may be included in the relocation information provided the displaced person as set forth in §24.203. To be eligible for payments under this section the displaced person must:

(1) Provide the Agency reasonable advance notice of the approximate date of the start of the move or disposition of the personal property and an inventory of the items to be moved. However, the Agency may waive this notice requirement after documenting its file accordingly.

(2) Permit the Agency to make reasonable and timely inspections of the personal property at both the displacement and replacement sites and to monitor the move.

(j) *Transfer of ownership (nonresidential).* Upon request and in accordance with applicable law, the claimant shall transfer to the Agency ownership of any personal property that has not been moved, sold, or traded in.

[70 FR 611, Jan. 4, 2005, as amended at 70 FR 22611, May 2, 2005]

Back to Top

§24.302 Fixed payment for moving expenses—residential moves.

Any person displaced from a dwelling or a seasonal residence or a dormitory style room is entitled to receive a fixed moving cost payment as an alternative to a payment for actual moving and related expenses under §24.301. This payment shall be determined according to the Fixed Residential Moving Cost Schedule[3] approved by the Federal Highway Administration and published in the FEDERAL REGISTER on a periodic basis. The payment to a person with minimal personal possessions who is in occupancy of a dormitory style room or a person whose residential move is performed by an Agency at no cost to the person shall be limited to the amount stated in the most recent edition of the Fixed Residential Moving Cost Schedule.

[3]The Fixed Residential Moving Cost Schedule is available at the following URL: *http://www.fhwa.dot.gov//////realestate/fixsch96.htm.* Agencies are cautioned to ensure they are using the most recent edition.

Back to Top

§24.303 Related nonresidential eligible expenses.

The following expenses, in addition to those provided by §24.301 for moving personal property, shall be provided if the Agency determines that they are actual, reasonable and necessary:

(a) Connection to available nearby utilities from the right-of-way to improvements at the replacement site.

(b) Professional services performed prior to the purchase or lease of a replacement site to determine its suitability for the displaced person's business operation including but not limited to, soil testing, feasibility and marketing studies (excluding any fees or commissions directly related to the purchase or lease of such site). At the discretion of the Agency a reasonable pre-approved hourly rate may be established. (See appendix A, §24.303(b).)

(c) Impact fees or one time assessments for anticipated heavy utility usage, as determined necessary by the Agency.

Back to Top

§24.304 Reestablishment expenses—nonresidential moves.

In addition to the payments available under §§24.301 and 24.303 of this subpart, a small business, as defined in §24.2(a)(24), farm or nonprofit organization is entitled to receive a payment, not to exceed $10,000, for expenses actually incurred in relocating and reestablishing such small business, farm or nonprofit organization at a replacement site.

(a) *Eligible expenses.* Reestablishment expenses must be reasonable and necessary, as determined by the Agency. They include, but are not limited to, the following:

(1) Repairs or improvements to the replacement real property as required by Federal, State or local law, code or ordinance.

(2) Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.

(3) Construction and installation costs for exterior signing to advertise the business.

(4) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling, or carpeting.

(5) Advertisement of replacement location.

(6) Estimated increased costs of operation during the first 2 years at the replacement site for such items as:

(i) Lease or rental charges;

(ii) Personal or real property taxes;

(iii) Insurance premiums; and

(iv) Utility charges, excluding impact fees.

(7) Other items that the Agency considers essential to the reestablishment of the business.

(b) *Ineligible expenses.* The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

(1) Purchase of capital assets, such as, office furniture, filing cabinets, machinery, or trade fixtures.

(2) Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.

(3) Interest on money borrowed to make the move or purchase the replacement property.

(4) Payment to a part-time business in the home which does not contribute materially (defined at §24.2(a)(7)) to the household income.

Back to Top

§24.305 Fixed payment for moving expenses—nonresidential moves.

(a) *Business.* A displaced business may be eligible to choose a fixed payment in lieu of the payments for actual moving and related expenses, and actual reasonable reestablishment expenses provided by §§24.301, 24.303 and 24.304. Such fixed payment, except for payment to a nonprofit organization, shall equal the average annual net earnings of the business, as computed in accordance with paragraph (e) of this section, but not less than $1,000 nor more than $20,000. The displaced business is eligible for the payment if the Agency determines that:

(1) The business owns or rents personal property which must be moved in connection with such displacement and for which an expense would be incurred in such move and, the business vacates or relocates from its displacement site;

(2) The business cannot be relocated without a substantial loss of its existing patronage (clientele or net earnings). A business is assumed to meet this test unless the Agency determines that it will not suffer a substantial loss of its existing patronage;

(3) The business is not part of a commercial enterprise having more than three other entities which are not being acquired by the Agency, and which are under the same ownership and engaged in the same or similar business activities.

(4) The business is not operated at a displacement dwelling solely for the purpose of renting such dwelling to others;

(5) The business is not operated at the displacement site solely for the purpose of renting the site to others; and

(6) The business contributed materially to the income of the displaced person during the 2 taxable years prior to displacement. (See §24.2(a)(7).)

(b) *Determining the number of businesses.* In determining whether two or more displaced legal entities constitute a single business, which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which:

(1) The same premises and equipment are shared;

(2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

(3) The entities are held out to the public, and to those customarily dealing with them, as one business; and

(4) The same person or closely related persons own, control, or manage the affairs of the entities.

(c) *Farm operation.* A displaced farm operation (defined at §24.2(a)(12)) may choose a fixed payment, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, in an amount equal to its average annual net earnings as computed in accordance with paragraph (e) of this section, but not less than $1,000 nor more than $20,000. In the case of a partial acquisition of land, which was a farm operation before the acquisition, the fixed payment shall be made only if the Agency determines that:

(1) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

(2) The partial acquisition caused a substantial change in the nature of the farm operation.

(d) *Nonprofit organization.* A displaced nonprofit organization may choose a fixed payment of $1,000 to $20,000, in lieu of the payments for actual moving and related expenses and actual reasonable reestablishment expenses, if the Agency determines that it cannot be relocated without a substantial loss of existing patronage (membership or clientele). A nonprofit organization is assumed to meet this test, unless the Agency demonstrates otherwise. Any payment in excess of $1,000 must be supported with financial statements for the two 12-month periods prior to the acquisition. The amount to be used for the payment is the average of 2 years annual gross revenues less administrative expenses. (See appendix A, §24.305(d).)

(e) *Average annual net earnings of a business or farm operation.* The average annual net earnings of a business or farm operation are one-half of its net earnings before Federal, State, and local income taxes during the 2 taxable years immediately prior to the taxable year in which it was displaced. If the business or farm was not in operation for the full 2 taxable years prior to displacement, net earnings shall be based on the actual period of operation at the displacement site during the 2 taxable years prior to displacement, projected to an annual rate. Average annual net earnings may be based upon a different period of time when the Agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, the owner's spouse, and dependents. The displaced person shall furnish the Agency proof of net earnings through income tax returns, certified financial statements, or other reasonable evidence, which the Agency determines is satisfactory. (See appendix A, §24.305(e).)

Back to Top

§24.306 Discretionary utility relocation payments.

(a) Whenever a program or project undertaken by a displacing Agency causes the relocation of a utility facility (see §24.2 (a)(31)) and the relocation of the facility creates extraordinary expenses for its owner, the displacing Agency may, at its option, make a relocation payment to the owner for all or part of such expenses, if the following criteria are met:

(1) The utility facility legally occupies State or local government property, or property over which the State or local government has an easement or right-of-way;

(2) The utility facility's right of occupancy thereon is pursuant to State law or local ordinance specifically authorizing such use, or where such use and occupancy has been granted through a franchise, use and occupancy permit, or other similar agreement;

(3) Relocation of the utility facility is required by and is incidental to the primary purpose of the project or program undertaken by the displacing Agency;

(4) There is no Federal law, other than the Uniform Act, which clearly establishes a policy for the payment of utility moving costs that is applicable to the displacing Agency's program or project; and

(5) State or local government reimbursement for utility moving costs or payment of such costs by the displacing Agency is in accordance with State law.

(b) For the purposes of this section, the term extraordinary expenses means those expenses which, in the opinion of the displacing Agency, are not routine or predictable expenses relating to the utility's occupancy of rights-of-way, and are not ordinarily budgeted as operating expenses, unless the owner of the utility facility has explicitly and knowingly agreed to bear such expenses as a condition for use of the property, or has voluntarily agreed to be responsible for such expenses.

(c) A relocation payment to a utility facility owner for moving costs under this section may not exceed the cost to functionally restore the service disrupted by the federally-assisted program or project, less any increase in value of the new facility and salvage value of the old facility. The displacing Agency and the utility facility owner shall reach prior agreement on the nature of the utility relocation work to be accomplished, the eligibility of the work for reimbursement, the responsibilities for financing and accomplishing the work, and the method of accumulating costs and making payment. (*See* appendix A, §24.306.)

Back to Top

Subpart E—Replacement Housing Payments

Back to Top

§24.401 Replacement housing payment for 180-day homeowner-occupants.

(a) *Eligibility.* A displaced person is eligible for the replacement housing payment for a 180-day homeowner-occupant if the person:

(1) Has actually owned and occupied the displacement dwelling for not less than 180 days immediately prior to the initiation of negotiations; and

(2) Purchases and occupies a decent, safe, and sanitary replacement dwelling within one year after the later of the following dates (except that the Agency may extend such one year period for good cause):

(i) The date the displaced person receives final payment for the displacement dwelling or, in the case of condemnation, the date the full amount of the estimate of just compensation is deposited in the court; or

(ii) The date the displacing Agency's obligation under §24.204 is met.

(b) *Amount of payment.* The replacement housing payment for an eligible 180-day homeowner-occupant may not exceed $22,500. (See also §24.404.) The payment under this subpart is limited to the amount necessary to relocate to a comparable replacement dwelling within one year from the date the displaced homeowner-occupant is paid for the displacement dwelling, or the date a comparable replacement dwelling is made available to such person, whichever is later. The payment shall be the sum of:

(1) The amount by which the cost of a replacement dwelling exceeds the acquisition cost of the displacement dwelling, as determined in accordance with paragraph (c) of this section;

(2) The increased interest costs and other debt service costs which are incurred in connection with the mortgage(s) on the replacement dwelling, as determined in accordance with paragraph (d) of this section; and

(3) The reasonable expenses incidental to the purchase of the replacement dwelling, as determined in accordance with paragraph (e) of this section.

(c) *Price differential*—(1) *Basic computation.* The price differential to be paid under paragraph (b)(1) of this section is the amount which must be added to the acquisition cost of the displacement dwelling and site (*see* §24.2(a)(11)) to provide a total amount equal to the lesser of:

(i) The reasonable cost of a comparable replacement dwelling as determined in accordance with §24.403(a); or

(ii) The purchase price of the decent, safe, and sanitary replacement dwelling actually purchased and occupied by the displaced person.

(2) *Owner retention of displacement dwelling.* If the owner retains ownership of his or her dwelling, moves it from the displacement site, and reoccupies it on a replacement site, the purchase price of the replacement dwelling shall be the sum of:

(i) The cost of moving and restoring the dwelling to a condition comparable to that prior to the move;

(ii) The cost of making the unit a decent, safe, and sanitary replacement dwelling (defined at §24.2(a)(8)); and

(iii) The current fair market value for residential use of the replacement dwelling site (*see* appendix A, §24.401(c)(2)(iii)), unless the claimant rented the displacement site and there is a reasonable opportunity for the claimant to rent a suitable replacement site; and

(iv) The retention value of the dwelling, if such retention value is reflected in the “acquisition cost” used when computing the replacement housing payment.

(d) *Increased mortgage interest costs.* The displacing Agency shall determine the factors to be used in computing the amount to be paid to a displaced person under paragraph (b)(2) of this section. The payment for increased mortgage interest cost shall be the amount which will reduce the mortgage balance on a new mortgage to an amount which could be amortized with the same monthly payment for principal and interest as that for the mortgage(s) on the displacement dwelling. In addition, payments shall include other debt service costs, if not paid as incidental costs, and shall be based only on bona fide mortgages that were valid liens on the displacement dwelling for at least 180 days prior to the initiation of negotiations. Paragraphs (d)(1) through (d)(5) of this section shall apply to the computation of the increased mortgage interest costs payment, which payment shall be contingent upon a mortgage being placed on the replacement dwelling.

(1) The payment shall be based on the unpaid mortgage balance(s) on the displacement dwelling; however, in the event the displaced person obtains a smaller mortgage than the mortgage balance(s) computed in the buydown determination, the payment will be prorated and reduced accordingly. (See appendix A, §24.401(d).) In the case of a home equity loan the unpaid balance shall be that balance which existed 180 days prior to the initiation of negotiations or the balance on the date of acquisition, whichever is less.

(2) The payment shall be based on the remaining term of the mortgage(s) on the displacement dwelling or the term of the new mortgage, whichever is shorter.

(3) The interest rate on the new mortgage used in determining the amount of the payment shall not exceed the prevailing fixed interest rate for conventional mortgages currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

(4) Purchaser's points and loan origination or assumption fees, but not seller's points, shall be paid to the extent:

(i) They are not paid as incidental expenses;

(ii) They do not exceed rates normal to similar real estate transactions in the area;

(iii) The Agency determines them to be necessary; and

(iv) The computation of such points and fees shall be based on the unpaid mortgage balance on the displacement dwelling, less the amount determined for the reduction of the mortgage balance under this section.

(5) The displaced person shall be advised of the approximate amount of this payment and the conditions that must be met to receive the payment as soon as the facts relative to the person's current mortgage(s) are known and the payment shall be made available at or near the time of closing on the replacement dwelling in order to reduce the new mortgage as intended.

(e) *Incidental expenses.* The incidental expenses to be paid under paragraph (b)(3) of this section or §24.402(c)(1) are those necessary and reasonable costs actually incurred by the displaced person incident to the purchase of a replacement dwelling, and customarily paid by the buyer, including:

(1) Legal, closing, and related costs, including those for title search, preparing conveyance instruments, notary fees, preparing surveys and plats, and recording fees.

(2) Lender, FHA, or VA application and appraisal fees.

(3) Loan origination or assumption fees that do not represent prepaid interest.

(4) Professional home inspection, certification of structural soundness, and termite inspection.

(5) Credit report.

(6) Owner's and mortgagee's evidence of title, *e.g.*, title insurance, not to exceed the costs for a comparable replacement dwelling.

(7) Escrow agent's fee.

(8) State revenue or documentary stamps, sales or transfer taxes (not to exceed the costs for a comparable replacement dwelling).

(9) Such other costs as the Agency determine to be incidental to the purchase.

(f) Rental assistance payment for 180-day homeowner. A 180-day homeowner-occupant, who could be eligible for a replacement housing payment under paragraph (a) of this section but elects to rent a replacement dwelling, is eligible for a rental assistance payment. The amount of the rental assistance payment is based on a determination of market rent for the acquired dwelling compared to a comparable rental dwelling available on the market. The difference, if any, is computed in accordance with §24.402(b)(1), except that the limit of $5,250 does not apply, and disbursed in accordance with §24.402(b)(3). Under no circumstances would the rental assistance payment exceed the amount that could have been received under §24.401 (b)(1) had the 180-day homeowner elected to purchase and occupy a comparable replacement dwelling.

[70 FR 611, Jan. 4, 2005, as amended at 70 FR 22611, May 2, 2005]

Back to Top

§24.402 Replacement housing payment for 90-day occupants.

(a) *Eligibility.* A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed $5,250 for rental assistance, as computed in accordance with paragraph (b) of this section, or downpayment assistance, as computed in accordance with paragraph (c) of this section, if such displaced person:

(1) Has actually and lawfully occupied the displacement dwelling for at least 90 days immediately prior to the initiation of negotiations; and

(2) Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within 1 year (unless the Agency extends this period for good cause) after:

(i) For a tenant, the date he or she moves from the displacement dwelling; or

(ii) For an owner-occupant, the later of:

(A) The date he or she receives final payment for the displacement dwelling, or in the case of condemnation, the date the full amount of the estimate of just compensation is deposited with the court; or

(B) The date he or she moves from the displacement dwelling.

(b) *Rental assistance payment*—(1) *Amount of payment.* An eligible displaced person who rents a replacement dwelling is entitled to a payment not to exceed $5,250 for rental assistance. (See §24.404.) Such payment shall be 42 times the amount obtained by subtracting the base monthly rental for the displacement dwelling from the lesser of:

(i) The monthly rent and estimated average monthly cost of utilities for a comparable replacement dwelling; or

(ii) The monthly rent and estimated average monthly cost of utilities for the decent, safe, and sanitary replacement dwelling actually occupied by the displaced person.

(2) *Base monthly rental for displacement dwelling.* The base monthly rental for the displacement dwelling is the lesser of:

(i) The average monthly cost for rent and utilities at the displacement dwelling for a reasonable period prior to displacement, as determined by the Agency (for an owner-occupant, use the fair market rent for the displacement dwelling. For a tenant who paid little or no rent for the displacement dwelling, use the fair market rent, unless its use would result in a hardship because of the person's income or other circumstances);

(ii) Thirty (30) percent of the displaced person's average monthly gross household income if the amount is classified as "low income" by the U.S. Department of Housing and Urban Development's Annual Survey of Income Limits for the Public Housing and Section 8 Programs[4]. The base monthly rental shall be established solely on the criteria in paragraph (b)(2)(i) of this section for persons with income exceeding the survey's "low income" limits, for persons refusing to provide appropriate evidence of income, and for persons who are dependents. A full time student or resident of an institution may be assumed to be a dependent, unless the person demonstrates otherwise; or,

[4]The U.S. Department of Housing and Urban Development's Public Housing and Section 8 Program Income Limits are updated annually and are available on FHWA's Web site at *http://www.fhwa.dot.gov/realestate/ua/ualic.htm.*

(iii) The total of the amounts designated for shelter and utilities if the displaced person is receiving a welfare assistance payment from a program that designates the amounts for shelter and utilities.

(3) *Manner of disbursement.* A rental assistance payment may, at the Agency's discretion, be disbursed in either a lump sum or in installments. However, except as limited by §24.403(f), the full amount vests immediately, whether or not there is any later change in the person's income or rent, or in the condition or location of the person's housing.

(c) *Downpayment assistance payment*—(1) *Amount of payment.* An eligible displaced person who purchases a replacement dwelling is entitled to a downpayment assistance payment in the amount the person would receive under paragraph (b) of this section if the person rented a comparable replacement dwelling. At the Agency's discretion, a downpayment assistance payment that is less than $5,250 may be increased to any amount not to exceed $5,250. However, the payment to a displaced homeowner shall not exceed the amount the owner would receive under §24.401(b) if he or she met the 180-day occupancy requirement. If the Agency elects to provide the maximum payment of $5,250 as a downpayment, the Agency shall apply this discretion in a uniform and consistent manner, so that eligible displaced persons in like circumstances are treated equally. A displaced person eligible to receive a payment as a 180-day owner-occupant under §24.401(a) is not eligible for this payment. (See appendix A, §24.402(c).)

(2) *Application of payment.* The full amount of the replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

Back to Top

§24.403 Additional rules governing replacement housing payments.

(a) *Determining cost of comparable replacement dwelling.* The upper limit of a replacement housing payment shall be based on the cost of a comparable replacement dwelling (defined at §24.2(a)(6)).

(1) If available, at least three comparable replacement dwellings shall be examined and the payment computed on the basis of the dwelling most nearly representative of, and equal to, or better than, the displacement dwelling.

(2) If the site of the comparable replacement dwelling lacks a major exterior attribute of the displacement dwelling site, (*e.g.*, the site is significantly smaller or does not contain a swimming pool), the value of such attribute shall be subtracted from the acquisition cost of the displacement dwelling for purposes of computing the payment.

(3) If the acquisition of a portion of a typical residential property causes the displacement of the owner from the dwelling and the remainder is a buildable residential lot, the Agency may offer to purchase the entire property. If the owner refuses to sell the remainder to the Agency, the fair market value of the remainder may be added to the acquisition cost of the displacement dwelling for purposes of computing the replacement housing payment.

(4) To the extent feasible, comparable replacement dwellings shall be selected from the neighborhood in which the displacement dwelling was located or, if that is not possible, in nearby or similar neighborhoods where housing costs are generally the same or higher.

(5) Multiple occupants of one displacement dwelling. If two or more occupants of the displacement dwelling move to separate replacement dwellings, each occupant is entitled to a reasonable prorated share, as determined by the Agency, of any relocation payments that would have been made if the occupants moved together to a comparable replacement dwelling. However, if the Agency determines that two or more occupants maintained separate households within the same dwelling, such occupants have separate entitlements to relocation payments.

(6) Deductions from relocation payments. An Agency shall deduct the amount of any advance relocation payment from the relocation payment(s) to which a displaced person is otherwise entitled. The Agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to any other creditor.

(7) Mixed-use and multifamily properties. If the displacement dwelling was part of a property that contained another dwelling unit and/or space used for nonresidential purposes, and/or is located on a lot larger than typical for residential purposes, only that portion of the acquisition payment which is actually attributable to the displacement dwelling shall be considered the acquisition cost when computing the replacement housing payment.

(b) *Inspection of replacement dwelling.* Before making a replacement housing payment or releasing the initial payment from escrow, the Agency or its designated representative shall inspect the replacement dwelling and determine whether it is a decent, safe, and sanitary dwelling as defined at §24.2(a)(8).

(c) *Purchase of replacement dwelling.* A displaced person is considered to have met the requirement to purchase a replacement dwelling, if the person:

(1) Purchases a dwelling;

(2) Purchases and rehabilitates a substandard dwelling;

(3) Relocates a dwelling which he or she owns or purchases;

(4) Constructs a dwelling on a site he or she owns or purchases;

(5) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site the person owns or purchases; or

(6) Currently owns a previously purchased dwelling and site, valuation of which shall be on the basis of current fair market value.

(d) *Occupancy requirements for displacement or replacement dwelling.* No person shall be denied eligibility for a replacement housing payment solely because the person is unable to meet the occupancy requirements set forth in these regulations for a reason beyond his or her control, including:

(1) A disaster, an emergency, or an imminent threat to the public health or welfare, as determined by the President, the Federal Agency funding the project, or the displacing Agency; or

(2) Another reason, such as a delay in the construction of the replacement dwelling, military duty, or hospital stay, as determined by the Agency.

(e) *Conversion of payment.* A displaced person who initially rents a replacement dwelling and receives a rental assistance payment under §24.402(b) is eligible to receive a payment under §24.401 or §24.402(c) if he or she meets the eligibility criteria for such payments, including purchase and occupancy within the prescribed 1-year period. Any portion of the rental assistance payment that has been disbursed shall be deducted from the payment computed under §24.401 or §24.402(c).

(f) *Payment after death.* A replacement housing payment is personal to the displaced person and upon his or her death the undisbursed portion of any such payment shall not be paid to the heirs or assigns, except that:

(1) The amount attributable to the displaced person's period of actual occupancy of the replacement housing shall be paid.

(2) Any remaining payment shall be disbursed to the remaining family members of the displaced household in any case in which a member of a displaced family dies.

(3) Any portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

(g) *Insurance proceeds.* To the extent necessary to avoid duplicate compensation, the amount of any insurance proceeds received by a person in connection with a loss to the displacement dwelling due to a catastrophic occurrence (fire, flood, etc.) shall be included in the acquisition cost of the displacement dwelling when computing the price differential. (*See* §24.3.)

[70 FR 611, Jan. 4, 2005, as amended at 70 FR 22611, May 2, 2005]

Back to Top

§24.404 Replacement housing of last resort.

(a) *Determination to provide replacement housing of last resort.* Whenever a program or project cannot proceed on a timely basis because comparable replacement dwellings are not available within the monetary limits for owners or tenants, as specified in §24.401 or §24.402, as appropriate, the Agency shall provide additional or alternative assistance under the provisions of this subpart. Any decision to provide last resort housing assistance must be adequately justified either:

(1) On a case-by-case basis, for good cause, which means that appropriate consideration has been given to:

(i) The availability of comparable replacement housing in the program or project area;

(ii) The resources available to provide comparable replacement housing; and

(iii) The individual circumstances of the displaced person, or

(2) By a determination that:

(i) There is little, if any, comparable replacement housing available to displaced persons within an entire program or project area; and, therefore, last resort housing assistance is necessary for the area as a whole;

(ii) A program or project cannot be advanced to completion in a timely manner without last resort housing assistance; and

(iii) The method selected for providing last resort housing assistance is cost effective, considering all elements, which contribute to total program or project costs.

(b) *Basic rights of persons to be displaced.* Notwithstanding any provision of this subpart, no person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person. No person may be deprived of any rights the person may have under the Uniform Act or this part. The Agency shall not require any displaced person to accept a dwelling provided by the Agency under these procedures (unless the Agency and the displaced person have entered into a contract to do so) in lieu of any acquisition payment or any relocation payment for which the person may otherwise be eligible.

(c) *Methods of providing comparable replacement housing.* Agencies shall have broad latitude in implementing this subpart, but implementation shall be for reasonable cost, on a case-by-case basis unless an exception to case-by-case analysis is justified for an entire project.

(1) The methods of providing replacement housing of last resort include, but are not limited to:

(i) A replacement housing payment in excess of the limits set forth in §24.401 or §24.402. A replacement housing payment under this section may be provided in installments or in a lump sum at the Agency's discretion.

(ii) Rehabilitation of and/or additions to an existing replacement dwelling.

(iii) The construction of a new replacement dwelling.

(iv) The provision of a direct loan, which requires regular amortization or deferred repayment. The loan may be unsecured or secured by the real property. The loan may bear interest or be interest-free.

(v) The relocation and, if necessary, rehabilitation of a dwelling.

(vi) The purchase of land and/or a replacement dwelling by the displacing Agency and subsequent sale or lease to, or exchange with a displaced person.

(vii) The removal of barriers for persons with disabilities.

(2) Under special circumstances, consistent with the definition of a comparable replacement dwelling, modified methods of providing replacement housing of last resort permit consideration of replacement housing based on space and physical characteristics different from those in the displacement dwelling (*see* appendix A, §24.404(c)), including upgraded, but smaller replacement housing that is decent, safe, and sanitary and adequate to accommodate individuals or families displaced from marginal or substandard housing with probable functional obsolescence. In no event, however, shall a displaced person be required to move into a dwelling that is not functionally equivalent in accordance with §24.2(a)(6)(ii) of this part.

(3) The Agency shall provide assistance under this subpart to a displaced person who is not eligible to receive a replacement housing payment under §§24.401 and 24.402 because of failure to meet the length of occupancy requirement when comparable replacement rental housing is not available at rental rates within the displaced person's financial means. (*See* §24.2(a)(6)(viii)(C).) Such assistance shall cover a period of 42 months.

Back to Top

Subpart F—Mobile Homes

Back to Top

§24.501 Applicability.

(a) *General.* This subpart describes the requirements governing the provision of replacement housing payments to a person displaced from a mobile home and/or mobile home site who meets the basic eligibility requirements of this part. Except as modified by this subpart, such a displaced person is entitled to a moving expense payment in accordance with subpart D of

this part and a replacement housing payment in accordance with subpart E of this part to the same extent and subject to the same requirements as persons displaced from conventional dwellings. Moving cost payments to persons occupying mobile homes are covered in §24.301(g)(1) through (g)(10).

(b) *Partial acquisition of mobile home park.* The acquisition of a portion of a mobile home park property may leave a remaining part of the property that is not adequate to continue the operation of the park. If the Agency determines that a mobile home located in the remaining part of the property must be moved as a direct result of the project, the occupant of the mobile home shall be considered to be a displaced person who is entitled to relocation payments and other assistance under this part.

Back to Top

§24.502 Replacement housing payment for 180-day mobile homeowner displaced from a mobile home, and/or from the acquired mobile home site.

(a) *Eligibility.* An owner-occupant displaced from a mobile home or site is entitled to a replacement housing payment, not to exceed $22,500, under §24.401 if:

(1) The person occupied the mobile home on the displacement site for at least 180 days immediately before:

(i) The initiation of negotiations to acquire the mobile home, if the person owned the mobile home and the mobile home is real property;

(ii) The initiation of negotiations to acquire the mobile home site if the mobile home is personal property, but the person owns the mobile home site; or

(iii) The date of the Agency's written notification to the owner-occupant that the owner is determined to be displaced from the mobile home as described in paragraphs (a)(3)(i) through (iv) of this section.

(2) The person meets the other basic eligibility requirements at §24.401(a)(2); and

(3) The Agency acquires the mobile home as real estate, or acquires the mobile home site from the displaced owner, or the mobile home is personal property but the owner is displaced from the mobile home because the Agency determines that the mobile home:

(i) Is not, and cannot economically be made decent, safe, and sanitary;

(ii) Cannot be relocated without substantial damage or unreasonable cost;

(iii) Cannot be relocated because there is no available comparable replacement site; or

(iv) Cannot be relocated because it does not meet mobile home park entrance requirements.

(b) *Replacement housing payment computation for a 180-day owner that is displaced from a mobile home.* The replacement housing payment for an eligible displaced 180-day owner is computed as described at §24.401(b) incorporating the following, as applicable:

(1) If the Agency acquires the mobile home as real estate and/or acquires the owned site, the acquisition cost used to compute the price differential payment is the actual amount paid to the owner as just compensation for the acquisition of the mobile home, and/or site, if owned by the displaced mobile homeowner.

(2) If the Agency does not purchase the mobile home as real estate but the owner is determined to be displaced from the mobile home and eligible for a replacement housing payment based on paragraph (a)(1)(iii) of this section, the eligible price differential payment for the purchase of a comparable replacement mobile home, is the lesser of the displaced mobile homeowner's net cost to purchase a replacement mobile home (*i.e.*, purchase price of the replacement mobile home less trade-in or sale proceeds of the displacement mobile home); or, the cost of the Agency's selected comparable mobile home less the Agency's estimate of the salvage or trade-in value for the mobile home from which the person is displaced.

(3) If a comparable replacement mobile home site is not available, the price differential payment shall be computed on the basis of the reasonable cost of a conventional comparable replacement dwelling.

(c) *Rental assistance payment for a 180-day owner-occupant that is displaced from a leased or rented mobile home site.* If the displacement mobile home site is leased or rented, a displaced 180-day owner-occupant is entitled to a rental assistance payment computed as described in §24.402(b). This rental assistance payment may be used to lease a replacement site; may be applied to the purchase price of a replacement site; or may be applied, with any replacement housing payment attributable to the mobile home, to the purchase of a replacement mobile home or conventional decent, safe and sanitary dwelling.

(d) *Owner-occupant not displaced from the mobile home.* If the Agency determines that a mobile home is personal property and may be relocated to a comparable replacement site, but the owner-occupant elects not to do so, the owner is not entitled to a replacement housing payment for the purchase of a replacement mobile home. However, the owner is eligible for moving

costs described at §24.301 and any replacement housing payment for the purchase or rental of a comparable site as described in this section or §24.503 as applicable.

Back to Top

§24.503 Replacement housing payment for 90-day mobile home occupants.

A displaced tenant or owner-occupant of a mobile home and/or site is eligible for a replacement housing payment, not to exceed $5,250, under §24.402 if:

(a) The person actually occupied the displacement mobile home on the displacement site for at least 90 days immediately prior to the initiation of negotiations;

(b) The person meets the other basic eligibility requirements at §24.402(a); and

(c) The Agency acquires the mobile home and/or mobile home site, or the mobile home is not acquired by the Agency but the Agency determines that the occupant is displaced from the mobile home because of one of the circumstances described at §24.502(a)(3).

Back to Top

Subpart G—Certification

Back to Top

§24.601 Purpose.

This subpart permits a State Agency to fulfill its responsibilities under the Uniform Act by certifying that it shall operate in accordance with State laws and regulations which shall accomplish the purpose and effect of the Uniform Act, in lieu of providing the assurances required by §24.4 of this part.

Back to Top

§24.602 Certification application.

An Agency wishing to proceed on the basis of a certification may request an application for certification from the Lead Agency Director, Office of Real Estate Services, HEPR-1, Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. The completed application for certification must be approved by the governor of the State, or the governor's designee, and must be coordinated with the Federal funding Agency, in accordance with application procedures.

[70 FR 611, Jan. 4, 2005, as amended at 73 FR 33329, June 12, 2008]

Back to Top

§24.603 Monitoring and corrective action.

(a) The Federal Lead Agency shall, in coordination with other Federal Agencies, monitor from time to time State Agency implementation of programs or projects conducted under the certification process and the State Agency shall make available any information required for this purpose.

(b) The Lead Agency may require periodic information or data from affected Federal or State Agencies.

(c) A Federal Agency may, after consultation with the Lead Agency, and notice to and consultation with the governor, or his or her designee, rescind any previous approval provided under this subpart if the certifying State Agency fails to comply with its certification or with applicable State law and regulations. The Federal Agency shall initiate consultation with the Lead Agency at least 30 days prior to any decision to rescind approval of a certification under this subpart. The Lead Agency will also inform other Federal Agencies, which have accepted a certification under this subpart from the same State Agency, and will take whatever other action that may be appropriate.

(d) Section 103(b)(2) of the Uniform Act, as amended, requires that the head of the Lead Agency report biennially to the Congress on State Agency implementation of section 103. To enable adequate preparation of the prescribed biennial report, the Lead Agency may require periodic information or data from affected Federal or State Agencies.

Back to Top

Back to Top

Appendix A to Part 24—Additional Information

This appendix provides additional information to explain the intent of certain provisions of this part.

SUBPART A—GENERAL

Section 24.2 Definitions and Acronyms

Section 24.2(a)(6) Definition of comparable replacement dwelling. The requirement in §24.2(a)(6)(ii) that a comparable replacement dwelling be "functionally equivalent" to the displacement dwelling means that it must perform the same function, and provide the same utility. While it need not possess every feature of the displacement dwelling, the principal features must be present.

For example, if the displacement dwelling contains a pantry and a similar dwelling is not available, a replacement dwelling with ample kitchen cupboards may be acceptable. Insulated and heated space in a garage might prove an adequate substitute for basement workshop space. A dining area may substitute for a separate dining room. Under some circumstances, attic space could substitute for basement space for storage purposes, and vice versa.

Only in unusual circumstances may a comparable replacement dwelling contain fewer rooms or, consequentially, less living space than the displacement dwelling. Such may be the case when a decent, safe, and sanitary replacement dwelling (which by definition is "adequate to accommodate" the displaced person) may be found to be "functionally equivalent" to a larger but very run-down substandard displacement dwelling. Another example is when a displaced person accepts an offer of government housing assistance and the applicable requirements of such housing assistance program require that the displaced person occupy a dwelling that has fewer rooms or less living space than the displacement dwelling.

Section 24.2(a)(6)(vii). The definition of comparable replacement dwelling requires that a comparable replacement dwelling for a person who is not receiving assistance under any government housing program before displacement must be currently available on the private market without any subsidy under a government housing program.

Section 24.2(a)(6)(ix). A public housing unit may qualify as a comparable replacement dwelling only for a person displaced from a public housing unit. A privately owned dwelling with a housing program subsidy tied to the unit may qualify as a comparable replacement dwelling only for a person displaced from a similarly subsidized unit or public housing.

A housing program subsidy that is paid to a person (not tied to the building), such as a HUD Section 8 Housing Voucher Program, may be reflected in an offer of a comparable replacement dwelling to a person receiving a similar subsidy or occupying a privately owned subsidized unit or public housing unit before displacement.

However, nothing in this part prohibits an Agency from offering, or precludes a person from accepting, assistance under a government housing program, even if the person did not receive similar assistance before displacement. However, the Agency is obligated to inform the person of his or her options under this part. (If a person accepts assistance under a government housing assistance program, the rules of that program governing the size of the dwelling apply, and the rental assistance payment under §24.402 would be computed on the basis of the person's actual out-of-pocket cost for the replacement housing.)

Section 24.2(a)(8)(ii) Decent, Safe and Sanitary. Many local housing and occupancy codes require the abatement of deteriorating paint, including lead-based paint and lead-based paint dust, in protecting the public health and safety. Where such standards exist, they must be honored. Even where local law does not mandate adherence to such standards, it is strongly recommended that they be considered as a matter of public policy.

Section 24.2(a)(8)(vii) Persons with a disability. Reasonable accommodation of a displaced person with a disability at the replacement dwelling means the Agency is required to address persons with a physical impairment that substantially limits one or more of the major life activities. In these situations, reasonable accommodation should include the following at a minimum: Doors of adequate width; ramps or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets and sinks; storage cabinets, vanities, sink and mirrors at appropriate heights. Kitchen accommodations will include sinks and storage cabinets built at appropriate heights for access. The Agency shall also consider other items that may be necessary, such as physical modification to a unit, based on the displaced person's needs.

Section 24.2(a)(9)(ii)(D) Persons not displaced. Paragraph (a)(9)(ii)(D) of this section recognizes that there are circumstances where the acquisition, rehabilitation or demolition of real property takes place without the intent or necessity that an occupant of the property be permanently displaced. Because such occupants are not considered "displaced persons" under this part, great care must be exercised to ensure that they are treated fairly and equitably. For example, if the tenant-occupant of a dwelling will not be displaced, but is required to relocate temporarily in connection with the project, the temporarily occupied housing must be decent, safe, and sanitary and the tenant must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation. These expenses may include moving expenses and increased housing costs during the temporary relocation. Temporary relocation should not extend beyond one year before the person is returned to his or her previous unit or location. The Agency must contact any residential tenant who has been temporarily relocated for a period beyond one year and offer all permanent relocation assistance. This assistance would be in addition to any assistance the person has already received for temporary relocation, and may not be reduced by the amount of any temporary relocation assistance.

Similarly, if a business will be shut-down for any length of time due to rehabilitation of a site, it may be temporarily relocated and reimbursed for all reasonable out of pocket expenses or must be determined to be displaced at the Agency's option.

Any person who disagrees with the Agency's determination that he or she is not a displaced person under this part may file an appeal in accordance with 49 CFR part 24.10 of this regulation.

Section 24.2(a)(11) Dwelling Site. This definition ensures that the computation of replacement housing payments are accurate and realistic (a) when the dwelling is located on a larger than normal site, (b) when mixed-use properties are acquired, (c) when more than one dwelling is located on the acquired property, or (d) when the replacement dwelling is retained by an owner and moved to another site.

Section 24.2(a)(14) Household income (exclusions). Household income for purposes of this regulation does not include program benefits that are not considered income by Federal law such as food stamps and the Women Infants and Children (WIC) program. For a more detailed list of income exclusions see Federal Highway Administration, Office of Real Estate Services Web site: *http://www.fhwa.dot.gov/realestate/.* (FR 4644-N-16 page 20319 Updated.) If there is a question on whether or not to include income from a specific program contact the Federal Agency administering the program.

Section 24(a)(15) Initiation of negotiations. This section provides a special definition for acquisition and displacements under Pub. L. 96-510 or Superfund. The order of activities under Superfund may differ slightly in that temporary relocation may precede acquisition. Superfund is a program designed to clean up hazardous waste sites. When such a site is discovered, it may be necessary, in certain limited circumstances, to alert individual owners and tenants to potential health or safety threats and to offer to temporarily relocate them while additional information is gathered. If a decision is later made to permanently relocate such persons, those who had been temporarily relocated under Superfund authority would no longer be on site when a formal, written offer to acquire the property was made, and thus would lose their eligibility for a replacement housing payment. In order to prevent this unfair outcome, we have provided a definition of initiation of negotiation, which is based on the date the Federal Government offers to temporarily relocate an owner or tenant from the subject property.

Section 24.2(a)(15)(iv) Initiation of negotiations (Tenants.) Tenants who occupy property that may be acquired amicably, without recourse to the use of the power of eminent domain, must be fully informed as to their eligibility for relocation assistance. This includes notifying such tenants of their potential eligibility when negotiations are initiated, notifying them if they become fully eligible, and, in the event the purchase of the property will not occur, notifying them that they are no longer eligible for relocation benefits. If a tenant is not readily accessible, as the result of a disaster or emergency, the Agency must make a good faith effort to provide these notifications and document its efforts in writing.

Section 24.2(a)(17) Mobile home. The following examples provide additional guidance on the types of mobile homes and manufactured housing that can be found acceptable as comparable replacement dwellings for persons displaced from mobile homes. A recreational vehicle that is capable of providing living accommodations may be considered a replacement dwelling if the following criteria are met: the recreational vehicle is purchased and occupied as the “primary” place of residence; it is located on a purchased or leased site and connected to or have available all necessary utilities for functioning as a housing unit on the date of the displacing Agency's inspection; and, the dwelling, as sited, meets all local, State, and Federal requirements for a decent, safe and sanitary dwelling. (The regulations of some local jurisdictions will not permit the consideration of these vehicles as decent, safe and sanitary dwellings. In those cases, the recreational vehicle will not qualify as a replacement dwelling.)

For HUD programs, mobile home is defined as “a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such terms shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act, provided by Congress in the original 1974 Manufactured Housing Act.” In 1979 the term “mobile home” was changed to “manufactured home.” For purposes of this regulation, the terms mobile home and manufactured home are synonymous.

When assembled, manufactured homes built after 1976 contain no less than 320 square feet. They may be single or multi-sectioned units when installed. Their designation as personalty or realty will be determined by State law. When determined to be realty, most are eligible for conventional mortgage financing.

The 1976 HUD standards distinguish manufactured homes from factory-built “modular homes” as well as conventional or “stick-built” homes. Both of these types of housing are required to meet State and local construction codes.

Section 24.3 No Duplication of Payments. This section prohibits an Agency from making a payment to a person under these regulations that would duplicate another payment the person receives under Federal, State, or local law. The Agency is not required to conduct an exhaustive search for such other payments; it is only required to avoid creating a duplication based on the Agency's knowledge at the time a payment is computed.

Federal Agencies may find that, for Federal eminent domain purposes, the terms “fair market value” (as used throughout this subpart) and “market value,” which may be the more typical term in private transactions, may be synonymous.

Section 24.101(a) Direct Federal program or project. All 49 CFR Part 24 Subpart B (real property acquisition) requirements apply to all direct acquisitions for Federal programs and projects by Federal Agencies, except for acquisitions undertaken by the Tennessee Valley Authority or the Rural Utilities Service. There are no exceptions for “voluntary transactions.”

Section 24.101(b)(1)(i). The term “general geographic area” is used to clarify that the “geographic area” is not to be construed to be a small, limited area.

Sections 24.101(b)(1)(iv) and (2)(ii). These sections provide that, for programs and projects receiving Federal financial assistance described in §§24.101(b)(1) and (2), Agencies are to inform the owner(s) in writing of the Agency's estimate of the fair market value for the property to be acquired.

While this part does not require an appraisal for these transactions, Agencies may still decide that an appraisal is necessary to support their determination of the market value of these properties, and, in any event, Agencies must have some reasonable basis for their determination of market value. In addition, some of the concepts inherent in Federal Program appraisal practice are appropriate for these estimates. It would be appropriate for Agencies to adhere to project influence restrictions, as well as guard against discredited “public interest value” valuation concepts.

After an Agency has established an amount it believes to be the market value of the property and has notified the owner of this amount in writing, an Agency may negotiate freely with the owner in order to reach agreement. Since these transactions are voluntary, accomplished by a willing buyer and a willing seller, negotiations may result in agreement for the amount of the original estimate, an amount exceeding it, or for a lesser amount. Although not required by the regulations, it would be entirely appropriate for Agencies to apply the administrative settlement concept and procedures in §24.102(i) to negotiate amounts that exceed the original estimate of market value. Agencies shall not take any coercive action in order to reach agreement on the price to be paid for the property.

Section 24.101(c) Less-than-full-fee interest in real property. This provision provides a benchmark beyond which the requirements of the subpart clearly apply to leases.

Section 24.102(c)(2) Appraisal, waiver thereof, and invitation to owner. The purpose of the appraisal waiver provision is to provide Agencies a technique to avoid the costs and time delay associated with appraisal requirements for low-value, non-complex acquisitions. The intent is that non-appraisers make the waiver valuations, freeing appraisers to do more sophisticated work.

The Agency employee making the determination to use the appraisal waiver process must have enough understanding of appraisal principles to be able to determine whether or not the proposed acquisition is low value and uncomplicated.

Waiver valuations are not appraisals as defined by the Uniform Act and these regulations; therefore, appraisal performance requirements or standards, regardless of their source, are not required for waiver valuations by this rule. Since waiver valuations are not appraisals, neither is there a requirement for an appraisal review. However, the Agency must have a reasonable basis for the waiver valuation and an Agency official must still establish an amount believed to be just compensation to offer the property owner(s).

The definition of “appraisal” in the Uniform Act and appraisal waiver provisions of the Uniform Act and these regulations are Federal law and public policy and should be considered as such when determining the impact of appraisal requirements levied by others.

Section 24.102(d) Establishment of offer of just compensation. The initial offer to the property owner may not be less than the amount of the Agency's approved appraisal, but may exceed that amount if the Agency determines that a greater amount reflects just compensation for the property.

Section 24.102(f) Basic negotiation procedures. An offer should be adequately presented to an owner, and the owner should be properly informed. Personal, face-to-face contact should take place, if feasible, but this section does not require such contact in all cases.

This section also provides that the property owner be given a reasonable opportunity to consider the Agency's offer and to present relevant material to the Agency. In order to satisfy this requirement, Agencies must allow owners time for analysis, research and development, and compilation of a response, including perhaps getting an appraisal. The needed time can vary significantly, depending on the circumstances, but thirty (30) days would seem to be the minimum time these actions can be reasonably expected to require. Regardless of project time pressures, property owners must be afforded this opportunity.

In some jurisdictions, there is pressure to initiate formal eminent domain procedures at the earliest opportunity because completing the eminent domain process, including gaining possession of the needed real property, is very time consuming. These provisions are not intended to restrict this practice, so long as it does not interfere with the reasonable time that must be provided for negotiations, described above, and the Agencies adhere to the Uniform Act ban on coercive action (section 301(7) of the Uniform Act).

If the owner expresses intent to provide an appraisal report, Agencies are encouraged to provide the owner and/or his/her appraiser a copy of Agency appraisal requirements and inform them that their appraisal should be based on those requirements.

Section 24.102(i) Administrative settlement. This section provides guidance on administrative settlement as an alternative to judicial resolution of a difference of opinion on the value of a property, in order to avoid unnecessary litigation and congestion in the courts.

All relevant facts and circumstances should be considered by an Agency official delegated this authority. Appraisers, including review appraisers, must not be pressured to adjust their estimate of value for the purpose of justifying such settlements. Such action would invalidate the appraisal process.

Section 24.102(j) Payment before taking possession. It is intended that a right-of-entry for construction purposes be obtained only in the exceptional case, such as an emergency project, when there is no time to make an appraisal and purchase offer and the property owner is agreeable to the process.

Section 24.102(m) Fair rental. Section 301(6) of the Uniform Act limits what an Agency may charge when a former owner or previous occupant of a property is permitted to rent the property for a short term or when occupancy is subject to termination by the Agency on short notice. Such rent may not exceed “the fair rental value of the property to a short-term occupier.” Generally, the Agency's right to terminate occupancy on short notice (whether or not the renter also has that right) supports the establishment of a lesser rental than might be found in a longer, fixed-term situation.

Section 24.102(n) Conflict of interest. The overall objective is to minimize the risk of fraud while allowing Agencies to operate as efficiently as possible. There are three parts to this provision.

The first provision is the prohibition against having any interest in the real property being valued by the appraiser (for an appraisal), the valuer (for a waiver estimate) or the review appraiser (for an appraisal review.)

The second provision is that no person functioning as a negotiator for a project or program can supervise or formally evaluate the performance of any appraiser or review appraiser performing appraisal or appraisal review work for that project or program. The intent of this provision is to ensure appraisal/valuation independence and to prevent inappropriate influence. It is not intended to prevent Agencies from providing appraisers/valuers with appropriate project information and participating in determining the scope of work for the appraisal or valuation. For a program or project receiving Federal financial assistance, the Federal funding Agency may waive this requirement if it would create a hardship for the Agency. The intent is to accommodate Federal-aid recipients that have a small staff where this provision would be unworkable.

The third provision is to minimize situations where administrative costs exceed acquisition costs. Section 24.102(n) also provides that the same person may prepare a valuation estimate (including an appraisal) and negotiate that acquisition, if the valuation estimate amount is $10,000 or less. However, it should be noted that this exception for properties valued at $10,000 or less is not mandatory, *e.g.*, Agencies are not required to use those who prepare a waiver valuation or appraisal of $10,000 or less to negotiate the acquisition, and, all appraisals must be reviewed in accordance with §24.104. This includes appraisals of real property valued at $10,000 or less.

Section 24.103 Criteria for Appraisals. The term “requirements” is used throughout this section to avoid confusion with The Appraisal Foundation's Uniform Standards of Professional Appraisal Practice (USPAP) “standards.” Although this section discusses appraisal requirements, the definition of “appraisal” itself at §24.2(a)(3) includes appraisal performance requirements that are an inherent part of this section.

The term “Federal and federally-assisted program or project” is used to better identify the type of appraisal practices that are to be referenced and to differentiate them from the private sector, especially mortgage lending, appraisal practice.

Section 24.103(a) Appraisal requirements. The first sentence instructs readers that requirements for appraisals for Federal and federally-assisted programs or projects are located in 49 CFR part 24. These are the basic appraisal requirements for Federal and federally-assisted programs or projects. However, Agencies may enhance and expand on them, and there may be specific project or program legislation that references other appraisal requirements.

These appraisal requirements are necessarily designed to comply with the Uniform Act and other Federal eminent domain based appraisal requirements. They are also considered to be consistent with Standards Rules 1, 2, and 3 of the 2004 edition of the USPAP. Consistency with USPAP has been a feature of these appraisal requirements since the beginning of USPAP. This “consistent” relationship was more formally recognized in OMB Bulletin 92-06. While these requirements are considered consistent with USPAP, neither can supplant the other; their provisions are neither identical, nor interchangeable. Appraisals performed for Federal and federally-assisted real property acquisition must follow the requirements in this regulation. Compliance with any other appraisal requirements is not the purview of this regulation. An appraiser who is committed to working within the bounds of USPAP should recognize that compliance with both USPAP and these requirements may be achieved by using the Supplemental Standards Rule and the Jurisdictional Exception Rule of USPAP, where applicable.

The term “scope of work” defines the general parameters of the appraisal. It reflects the needs of the Agency and the requirements of Federal and federally-assisted program appraisal practice. It should be developed cooperatively by the assigned appraiser and an Agency official who is competent to both represent the Agency's needs and respect valid appraisal

practice. The scope of work statement should include the purpose and/or function of the appraisal, a definition of the estate being appraised, and if it is fair market value, its applicable definition, and the assumptions and limiting conditions affecting the appraisal. It may include parameters for the data search and identification of the technology, including approaches to value, to be used to analyze the data. The scope of work should consider the specific requirements in 49 CFR 24.103(a)(2)(i) through (v) and address them as appropriate.

Section 24.103(a)(1). The appraisal report should identify the items considered in the appraisal to be real property, as well as those identified as personal property.

Section 24.103(a)(2). All relevant and reliable approaches to value are to be used. However, where an Agency determines that the sales comparison approach will be adequate by itself and yield credible appraisal results because of the type of property being appraised and the availability of sales data, it may limit the appraisal assignment to the sales comparison approach. This should be reflected in the scope of work.

Section 24.103(b) Influence of the project on just compensation. As used in this section, the term “project” means an undertaking which is planned, designed, and intended to operate as a unit.

When the public is aware of the proposed project, project area property values may be affected. Therefore, property owners should not be penalized because of a decrease in value caused by the proposed project nor reap a windfall at public expense because of increased value created by the proposed project.

Section 24.103(d)(1). The appraiser and review appraiser must each be qualified and competent to perform the appraisal and appraisal review assignments, respectively. Among other qualifications, State licensing or certification and professional society designations can help provide an indication of an appraiser's abilities.

Section 24.104 Review of appraisals. The term “review appraiser” is used rather than “reviewing appraiser,” to emphasize that “review appraiser” is a separate specialty and not just an appraiser who happens to be reviewing an appraisal. Federal Agencies have long held the perspective that appraisal review is a unique skill that, while it certainly builds on appraisal skills, requires more. The review appraiser should possess both appraisal technical abilities and the ability to be the two-way bridge between the Agency's real property valuation needs and the appraiser.

Agency review appraisers typically perform a role greater than technical appraisal review. They are often involved in early project development. Later they may be involved in devising the scope of work statements and participate in making appraisal assignments to fee and/or staff appraisers. They are also mentors and technical advisors, especially on Agency policy and requirements, to appraisers, both staff and fee. Additionally, review appraisers are frequently technical advisors to other Agency officials.

Section 24.104(a). This paragraph states that the review appraiser is to review the appraiser's presentation and analysis of market information and that it is to be reviewed against §24.103 and other applicable requirements, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisition. The appraisal review is to be a technical review by an appropriately qualified review appraiser. The qualifications of the review appraiser and the level of explanation of the basis for the review appraiser's recommended (or approved) value depend on the complexity of the appraisal problem. If the initial appraisal submitted for review is not acceptable, the review appraiser is to communicate and work with the appraiser to the greatest extent possible to facilitate the appraiser's development of an acceptable appraisal.

In doing this, the review appraiser is to remain in an advisory role, not directing the appraisal, and retaining objectivity and options for the appraisal review itself.

If the Agency intends that the staff review appraiser approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), or establish the amount the Agency believes is just compensation, she/he must be specifically authorized by the Agency to do so. If the review appraiser is not specifically authorized to approve the appraisal (as the basis for the establishment of the amount believed to be just compensation), or establish the amount believed to be just compensation, that authority remains with another Agency official.

Section 24.104(b). In developing an independent approved or recommended value, the review appraiser may reference any acceptable resource, including acceptable parts of any appraisal, including an otherwise unacceptable appraisal. When a review appraiser develops an independent value, while retaining the appraisal review, that independent value also becomes the approved appraisal of the fair market value for Uniform Act Section 301(3) purposes. It is within Agency discretion to decide whether a second review is needed if the first review appraiser establishes a value different from that in the appraisal report or reports on the property.

Section 24.104(c). Before acceptance of an appraisal, the review appraiser must determine that the appraiser's documentation, including valuation data and analysis of that data, demonstrates the soundness of the appraiser's opinion of value. For the purposes of this part, an acceptable appraisal is any appraisal that, on its own, meets the requirements of §24.103. An approved appraisal is the one acceptable appraisal that is determined to best fulfill the requirement to be the basis for the amount believed to be just compensation. Recognizing that appraisal is not an exact science, there may be more than one acceptable appraisal of a property, but for the purposes of this part, there can be only one approved appraisal.

At the Agency's discretion, for a low value property requiring only a simple appraisal process, the review appraiser's recommendation (or approval), endorsing the appraiser's report, may be determined to satisfy the requirement for the review appraiser's signed report and certification.

Section 24.106(b). Expenses incidental to transfer of title to the agency. Generally, the Agency is able to pay such incidental costs directly and, where feasible, is required to do so. In order to prevent the property owner from making unnecessary out-of-pocket expenditures and to avoid duplication of expenses, the property owner should be informed early in the acquisition process of the Agency's intent to make such arrangements. Such expenses must be reasonable and necessary.

SUBPART C—GENERAL RELOCATION REQUIREMENTS

Section 24.202 Applicability and Section 205(c) Services to be provided. In extraordinary circumstances, when a displaced person is not readily accessible, the Agency must make a good faith effort to comply with these sections and document its efforts in writing.

Section 24.204 Availability of comparable replacement dwelling before displacement.

Section 24.204(a) General. This provision requires that no one may be required to move from a dwelling without a comparable replacement dwelling having been made available. In addition, §24.204(a) requires that, "where possible, three or more comparable replacement dwellings shall be made available." Thus, the basic standard for the number of referrals required under this section is three. Only in situations where three comparable replacement dwellings are not available (*e.g.*, when the local housing market does not contain three comparable dwellings) may the Agency make fewer than three referrals.

Section 24.205 Relocation assistance advisory services. Section 24.205(c)(2)(ii)(D) emphasizes that if the comparable replacement dwellings are located in areas of minority concentration, minority persons should, if possible, also be given opportunities to relocate to replacement dwellings not located in such areas.

Section 24.206 Eviction for cause. An eviction related to non-compliance with a requirement related to carrying out a project (*e.g.*, failure to move or relocate when instructed, or to cooperate in the relocation process) shall not negate a person's entitlement to relocation payments and other assistance set forth in this part.

Section 24.207 General Requirements-Claims for relocation payments. Section 24.207(a) allows an Agency to make a payment for low cost or uncomplicated nonresidential moves without additional documentation, as long as the payment is limited to the amount of the lowest acceptable bid or estimate, as provided for in §24.301(d)(1).

While §24.207(f) prohibits an Agency from proposing or requesting that a displaced person waive his or her rights or entitlements to relocation assistance and payments, an Agency may accept a written statement from the displaced person that states that they have chosen not to accept some or all of the payments or assistance to which they are entitled. Any such written statement must clearly show that the individual knows what they are entitled to receive (a copy of the Notice of Eligibility which was provided may serve as documentation) and their statement must specifically identify which assistance or payments they have chosen not to accept. The statement must be signed and dated and may not be coerced by the Agency.

SUBPART D—PAYMENT FOR MOVING AND RELATED EXPENSES

Section 24.301. Payment for Actual Reasonable Moving and Related Expenses.

Section 24.301(e) Personal property only. Examples of personal property only moves might be: personal property that is located on a portion of property that is being acquired, but the business or residence will not be taken and can still operate after the acquisition; personal property that is located in a mini-storage facility that will be acquired or relocated; personal property that is stored on vacant land that is to be acquired.

For a nonresidential personal property only move, the owner of the personal property has the options of moving the personal property by using a commercial mover or a self-move.

If a question arises concerning the reasonableness of an actual cost move, the acquiring Agency may obtain estimates from qualified movers to use as the standard in determining the payment.

Section 24.301 (g)(14)(i) and (ii). If the piece of equipment is operational at the acquired site, the estimated cost to reconnect the equipment shall be based on the cost to install the equipment as it currently exists, and shall not include the cost of code-required betterments or upgrades that may apply at the replacement site. As prescribed in the regulation, the allowable in-place value estimate (§24.301(g)(14)(i)) and moving cost estimate (§24.301(g)(14)(ii)) must reflect only the "as is" condition and installation of the item at the displacement site. The in-place value estimate may not include costs that reflect code or other requirements that were not in effect at the displacement site; or include installation costs for machinery or equipment that is not operable or not installed at the displacement site.

Section 24.301(g)(17) Searching expenses. In special cases where the displacing Agency determines it to be reasonable and necessary, certain additional categories of searching costs may be considered for reimbursement. These include those costs involved in investigating potential replacement sites and the time of the business owner, based on salary or earnings, required to apply for licenses or permits, zoning changes, and attendance at zoning hearings. Necessary attorney fees required to obtain such licenses or permits are also reimbursable. Time spent in negotiating the purchase of a replacement business site

is also reimbursable based on a reasonable salary or earnings rate. In those instances when such additional costs to investigate and acquire the site exceed $2,500, the displacing Agency may consider waiver of the cost limitation under the §24.7, waiver provision. Such a waiver should be subject to the approval of the Federal-funding Agency in accordance with existing delegation authority.

Section 24.303(b) Professional Services. If a question should arise as to what is a "reasonable hourly rate," the Agency should compare the rates of other similar professional providers in that area.

Section 24.305 Fixed Payment for Moving Expenses—Nonresidential Moves.

Section 24.305(d) Nonprofit organization. Gross revenues may include membership fees, class fees, cash donations, tithes, receipts from sales or other forms of fund collection that enables the nonprofit organization to operate. Administrative expenses are those for administrative support such as rent, utilities, salaries, advertising, and other like items as well as fundraising expenses. Operating expenses for carrying out the purposes of the nonprofit organization are not included in administrative expenses. The monetary receipts and expense amounts may be verified with certified financial statements or financial documents required by public Agencies.

Section 24.305(e) Average annual net earnings of a business or farm operation. If the average annual net earnings of the displaced business, farm, or nonprofit organization are determined to be less than $1,000, even $0 or a negative amount, the minimum payment of $1,000 shall be provided.

Section 24.306 Discretionary Utility Relocation Payments. Section 24.306(c) describes the issues that the Agency and the utility facility owner must agree to in determining the amount of the relocation payment. To facilitate and aid in reaching such agreement, the practices in the Federal Highway Administration regulation, 23 CFR part 645, subpart A, Utility Relocations, Adjustments and Reimbursement, should be followed.

SUBPART E—REPLACEMENT HOUSING PAYMENTS

Section 24.401 Replacement Housing Payment for 180-day Homeowner-Occupants.

Section 24.401(a)(2). An extension of eligibility may be granted if some event beyond the control of the displaced person such as acute or life threatening illness, bad weather preventing the completion of construction, or physical modifications required for reasonable accommodation of a replacement dwelling, or other like circumstances causes a delay in occupying a decent, safe, and sanitary replacement dwelling.

Section 24.401(c)(2)(iii) Price differential. The provision in §24.401(c)(2)(iii) to use the current fair market value for residential use does not mean the Agency must have the property appraised. Any reasonable method for arriving at the fair market value may be used.

Section 24.401(d) Increased mortgage interest costs. The provision in §24.401(d) sets forth the factors to be used in computing the payment that will be required to reduce a person's replacement mortgage (added to the downpayment) to an amount which can be amortized at the same monthly payment for principal and interest over the same period of time as the remaining term on the displacement mortgages. This payment is commonly known as the "buydown."

The Agency must know the remaining principal balance, the interest rate, and monthly principal and interest payments for the old mortgage as well as the interest rate, points and term for the new mortgage to compute the increased mortgage interest costs. If the combination of interest and points for the new mortgage exceeds the current prevailing fixed interest rate and points for conventional mortgages and there is no justification for the excessive rate, then the current prevailing fixed interest rate and points shall be used in the computations. Justification may be the unavailability of the current prevailing rate due to the amount of the new mortgage, credit difficulties, or other similar reasons.

SAMPLE COMPUTATION

Old Mortgage:	
Remaining Principal Balance	$50,000
Monthly Payment (principal and interest)	$458.22
Interest rate (percent)	7
New Mortgage:	
Interest rate (percent)	10
Points	3
Term (years)	15

Remaining term of the old mortgage is determined to be 174 months. Determining, or computing, the actual remaining term is more reliable than using the data supplied by the mortgagee. However, if it is shorter, use the term of the new mortgage and compute the needed monthly payment.

Amount to be financed to maintain monthly payments of $458.22 at 10% = $42,010.18.

Calculation:	
Remaining Principal Balance	$50,000.00

Minus Monthly Payment (principal and interest)	−42,010.18
Increased mortgage interest costs	7,989.82
3 points on $42,010.18	1,260.31
Total buydown necessary to maintain payments at $458.22/month	9,250.13

If the new mortgage actually obtained is less than the computed amount for a new mortgage ($42,010.18), the buydown shall be prorated accordingly. If the actual mortgage obtained in our example were $35,000, the buydown payment would be $7,706.57 ($35,000 divided by $42,010.18 = .8331; $9,250.13 multiplied by .83 = $7,706.57).

The Agency is obligated to inform the displaced person of the approximate amount of this payment and that the displaced person must obtain a mortgage of at least the same amount as the old mortgage and for at least the same term in order to receive the full amount of this payment. The Agency must advise the displaced person of the interest rate and points used to calculate the payment.

Section 24.402 Replacement Housing Payment for 90-day Occupants

Section 24.402(b)(2) Low income calculation example. The Uniform Act requires that an eligible displaced person who rents a replacement dwelling is entitled to a rental assistance payment calculated in accordance with §24.402(b). One factor in this calculation is to determine if a displaced person is "low income," as defined by the U.S. Department of Housing and Urban Development's annual survey of income limits for the Public Housing and Section 8 Programs. To make such a determination, the Agency must: (1) Determine the total number of members in the household (including all adults and children); (2) locate the appropriate table for income limits applicable to the Uniform Act for the state in which the displaced residence is located (found at: *http://www.fhwa.dot.gov/realestate/ua/ualic.htm*); (3) from the list of local jurisdictions shown, identify the appropriate county, Metropolitan Statistical Area (MSA)*, or Primary Metropolitan Statistical Area (PMSA)* in which the displacement property is located; and (4) locate the appropriate income limit in that jurisdiction for the size of this displaced person/family. The income limit must then be compared to the household income (§24.2(a)(15)) which is the gross annual income received by the displaced family, excluding income from any dependent children and full-time students under the age of 18. If the household income for the eligible displaced person/family is less than or equal to the income limit, the family is considered "low income." For example:

Tom and Mary Smith and their three children are being displaced. The information obtained from the family and verified by the Agency is as follows:

Tom Smith, employed, earns $21,000/yr.

Mary Smith, receives disability payments of $6,000/yr.

Tom Smith Jr., 21, employed, earns $10,000/yr.

Mary Jane Smith, 17, student, has a paper route, earns $3,000/yr. (Income is not included because she is a dependent child and a full-time student under 18)

Sammie Smith, 10, full-time student, no income.

Total family income for 5 persons is: $21,000 + $6,000 + $10,000 = $37,000

The displacement residence is located in the State of Maryland, Caroline County. The low income limit for a 5 person household is: $47,450. (2004 Income Limits)

This household is considered "low income."

* A complete list of counties and towns included in the identified MSAs and PMSAs can be found under the bulleted item "Income Limit Area Definition" posted on the FHWA's Web site at: *http://www.fhwa.dot.gov/realestate/ua/ualic.htm.*

Section 24.402(c) Downpayment assistance. The downpayment assistance provisions in §24.402(c) limit such assistance to the amount of the computed rental assistance payment for a tenant or an eligible homeowner. It does, however, provide the latitude for Agency discretion in offering downpayment assistance that exceeds the computed rental assistance payment, up to the $5,250 statutory maximum. This does not mean, however, that such Agency discretion may be exercised in a selective or discriminatory fashion. The displacing Agency should develop a policy that affords equal treatment for displaced persons in like circumstances and this policy should be applied uniformly throughout the Agency's programs or projects.

For the purpose of this section, should the amount of the rental assistance payment exceed the purchase price of the replacement dwelling, the payment would be limited to the cost of the dwelling.

Section 24.404 Replacement Housing of Last Resort.

Section 24.404(b) Basic rights of persons to be displaced. This paragraph affirms the right of a 180-day homeowner-occupant, who is eligible for a replacement housing payment under §24.401, to a reasonable opportunity to purchase a comparable replacement dwelling. However, it should be read in conjunction with the definition of "owner of a dwelling" at §24.2 (a)(20). The Agency is not required to provide persons owning only a fractional interest in the displacement dwelling a greater

level of assistance to purchase a replacement dwelling than the Agency would be required to provide such persons if they owned fee simple title to the displacement dwelling. If such assistance is not sufficient to buy a replacement dwelling, the Agency may provide additional purchase assistance or rental assistance.

Section 24.404(c) Methods of providing comparable replacement housing. This Section emphasizes the use of cost effective means of providing comparable replacement housing. The term "reasonable cost" is used to highlight the fact that while innovative means to provide housing are encouraged, they should be cost-effective. Section 24.404(c)(2) permits the use of last resort housing, in special cases, which may involve variations from the usual methods of obtaining comparability. However, such variation should never result in a lowering of housing standards nor should it ever result in a lower quality of living style for the displaced person. The physical characteristics of the comparable replacement dwelling may be dissimilar to those of the displacement dwelling but they may never be inferior.

One example might be the use of a new mobile home to replace a very substandard conventional dwelling in an area where comparable conventional dwellings are not available.

Another example could be the use of a superior, but smaller, decent, safe and sanitary dwelling to replace a large, old substandard dwelling, only a portion of which is being used as living quarters by the occupants and no other large comparable dwellings are available in the area.

[70 FR 611, Jan. 4, 2005, as amended at 70 FR 22611, May 2, 2005]

Back to Top

Appendix B to Part 24—Statistical Report Form

This Appendix sets forth the statistical information collected from Agencies in accordance with §24.9(c).

General

1. *Report coverage.* This report covers all relocation and real property acquisition activities under a Federal or a federally-assisted project or program subject to the provisions of the Uniform Act. If the exact numbers are not easily available, an Agency may provide what it believes to be a reasonable estimate.

2. *Report period.* Activities shall be reported on a Federal fiscal year basis, *i.e.*, October 1 through September 30.

3. *Where and when to submit report.* Submit a copy of this report to the lead Agency as soon as possible after September 30, but NOT LATER THAN NOVEMBER 15. Lead Agency address: Federal Highway Administration, Office of Real Estate Services (HEPR), 1200 New Jersey Avenue, SE., Washington, DC 20590.

4. *How to report relocation payments.* The full amount of a relocation payment shall be reported as if disbursed in the year during which the claim was approved, regardless of whether the payment is to be paid in installments.

5. *How to report dollar amounts.* Round off all money entries in Parts of this section A, B and C to the nearest dollar.

6. *Regulatory references.* The references in Parts A, B, C and D of this section indicate the subpart of the regulations pertaining to the requested information.

Part A. Real property acquisition under The Uniform Act

Line 1. Report all parcels acquired during the report year where title or possession was vested in the Agency during the reporting period. The parcel count reported should relate to ownerships and not to the number of parcels of different property interests (such as fee, perpetual easement, temporary easement, etc.) that may have been part of an acquisition from one owner. For example, an acquisition from a property that includes a fee simple parcel, a perpetual easement parcel, and a temporary easement parcel should be reported as 1 parcel not 3 parcels. (Include parcels acquired without Federal financial assistance, if there was or will be Federal financial assistance in other phases of the project or program.)

Line 2. Report the number of parcels reported on Line 1 that were acquired by condemnation. Include those parcels where compensation for the property was paid, deposited in court, or otherwise made available to a property owner pursuant to applicable law in order to vest title or possession in the Agency through condemnation authority.

Line 3. Report the number of parcels in Line 1 acquired through administrative settlement where the purchase price for the property exceeded the amount offered as just compensation and efforts to negotiate an agreement at that amount have failed.

Line 4. Report the total of the amounts paid, deposited in court, or otherwise made available to a property owner pursuant to applicable law in order to vest title or possession in the Agency in Line 1.

Part B. Residential Relocation Under the Uniform Act

Line 5. Report the number of households who were permanently displaced during the fiscal year by project or program activities and moved to their replacement dwelling. The term "households" includes all families and individuals. A family shall be reported as "one" household, *not* by the number of people in the family unit.

Line 6. Report the total amount paid for residential moving expenses (actual expense and fixed payment).

Line 7. Report the total amount paid for residential replacement housing payments including payments for replacement housing of last resort provided pursuant to §24.404 of this part.

Line 8. Report the number of households in Line 5 who were permanently displaced during the fiscal year by project or program activities and moved to their replacement dwelling as part of last resort housing assistance.

Line 9. Report the number of tenant households in Line 5 who were permanently displaced during the fiscal year by project or program activities, and who purchased and moved to their replacement dwelling using a downpayment assistance payment under this part.

Line 10. Report the total sum costs of residential relocation expenses and payments (excluding Agency administrative expenses) in Lines 6 and 7.

Part C. Nonresidential Relocation Under the Uniform Act

Line 11. Report the number of businesses, nonprofit organizations, and farms who were permanently displaced during the fiscal year by project or program activities and moved to their replacement location. This includes businesses, nonprofit organizations, and farms, that upon displacement, discontinued operations.

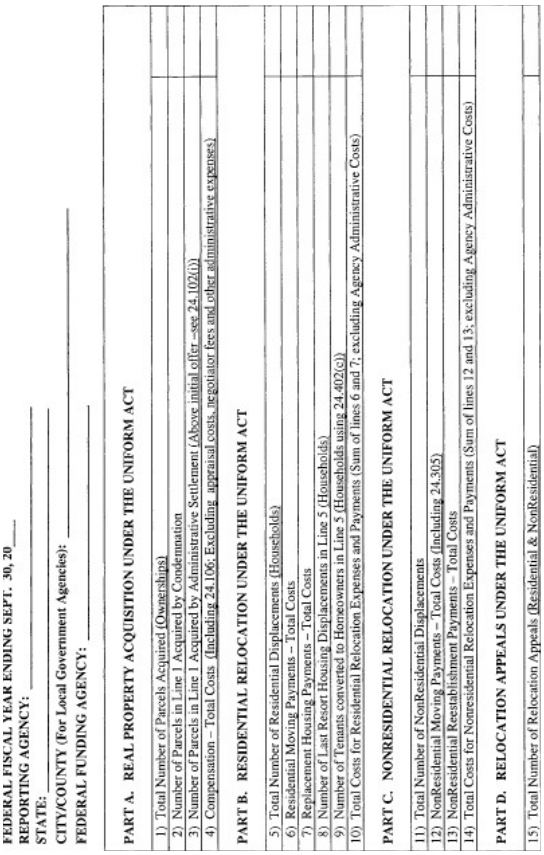
Line 12. Report the total amount paid for nonresidential moving expenses (actual expense and fixed payment.)

Line 13. Report the total amount paid for nonresidential reestablishment expenses.

Line 14. Report the total sum costs of nonresidential relocation expenses and payments (excluding Agency administrative expenses) in Lines 12 and 13.

Part D. Relocation Appeals

Line 15. Report the total number of relocation appeals filed during the fiscal year by aggrieved persons (residential and nonresidential).



FEDERAL FISCAL YEAR ENDING SEPT. 30, 20____
REPORTING AGENCY: _____
STATE: _____
CITY/COUNTY (For Local Government Agencies): _____
FEDERAL FUNDING AGENCY: _____

PART A. REAL PROPERTY ACQUISITION UNDER THE UNIFORM ACT
1) Total Number of Parcels Acquired (Ownerships)
2) Number of Parcels in Line 1 Acquired by Condemnation
3) Number of Parcels in Line 1 Acquired by Administrative Settlement (Above initial offer –see 24.102(i))
4) Compensation – Total Costs (Including 24.106; Excluding appraisal costs, negotiator fees and other administrative expenses)
PART B. RESIDENTIAL RELOCATION UNDER THE UNIFORM ACT
5) Total Number of Residential Displacements (Households)
6) Residential Moving Payments – Total Costs
7) Replacement Housing Payments – Total Costs
8) Number of Last Resort Housing Displacements in Line 5 (Households)
9) Number of Tenants converted to Homeowners in Line 5 (Households using 24.402(c))
10) Total Costs for Residential Relocation Expenses and Payments (Sum of lines 6 and 7; excluding Agency Administrative Costs)
PART C. NONRESIDENTIAL RELOCATION UNDER THE UNIFORM ACT
11) Total Number of NonResidential Displacements
12) NonResidential Moving Payments – Total Costs (Including 24.305)
13) NonResidential Reestablishment Payments – Total Costs
14) Total Costs for Nonresidential Relocation Expenses and Payments (Sum of lines 12 and 13; excluding Agency Administrative Costs)
PART D. RELOCATION APPEALS UNDER THE UNIFORM ACT
15) Total Number of Relocation Appeals (Residential & NonResidential)

View or download PDF

[70 FR 611, Jan. 4, 2005, as amended at 73 FR 33329, June 12, 2008]

Back to Top

Need assistance?

Attachment 5

Chapter 8
Conclusion

The economic recession has had a profound impact on aviation activity and trends throughout the nation, with the Elkins-Randolph County Regional Airport being no exception. The decline of the local wood products industry has significantly altered the activity level and aircraft fleet mix of the airport. Prior to the recession, the airport experienced a considerable number of operations by business jet aircraft. The recession has significantly reduced operations by these types of aircraft.

The Elkins-Randolph County Airport Authority, as do many airport sponsors these days, finds itself faced with the arduous task of finding innovative ways of encouraging and developing activity, and the revenue associated with that activity, at the airport. As high fuel prices continue to hamper recreational activity, and as governmental regulations threaten to further retard corporate aviation activity, the opportunities to increase, let alone maintain revenues at airports, particularly smaller general aviation airports, is becoming increasingly limited.

In addition to finding ways to increase revenue and activity, the Airport Authority is also faced with the task of defining what the airport's identity will be as it relates to future development and expansion. The airport, during its formative years, was developed to accommodate commercial air service. With the loss of commercial air service in 1991 and the possibility of regaining this service becoming

increasingly remote, the Airport Authority must, in order for the airport to thrive, find a new direction.

In 2009, the Randolph County Commission, the Elkins City Council and the Airport Authority executed a plan to revise the Authority's charter as the first step in this endeavor. This significant undertaking included the creation of the Elkins-Randolph County Regional Airport Authority and the population of the Authority with a well qualified and forward thinking membership. This effort also resulted in a renewed commitment from the Randolph County Commission and the Elkins City Council to continue its support of the airport and its mission to provide a safe and efficient portal for aviation activity.

The Airport Authority's current focus is to find ways to develop and increase aviation activity at the facility. To this end, the Authority should consider hosting fly-ins, "hundred-dollar hamburger" picnics and other similar activities to entice pilots to utilize the facility and, potentially, base their aircraft there. These activities are good ways to increase activity and promote the airport within the aviation community. It is critical to the long term growth of the airport that residents of the community and local civic and political leaders are incorporated into these events to increase the level of local awareness of and support for the airport and its mission.

To increase overall aviation activity at the airport, the Airport Authority is in the planning/development phase of a project to construct a fly-in camping area on the northern side of the approach

end of Runway 14. Fly-in camping is a growing sector in the aviation industry and a number of airports throughout the country provide facilities to accommodate this activity. The nearby Grant County Airport in Petersburg, West Virginia, is taking these same measures, for example. Randolph County has a significant amount of tourist attractions that could be leveraged to entice pilots to visit the facility. If the Airport Authority is able to effectively market the facility in conjunction with these tourist attractions, such as by cooperatively developing such things as "fly and ride the rails" tours, they might stand to see a relatively meaningful increase in overall aviation activity at the airport. The airport should realize a direct financial impact through the rental revenue associated with the camping area; however, the most significant financial impact would be through an increase in aviation fuel sales.

The much more difficult task, however, is to increase the level of business jet traffic and herein lies the problem. As airport activity is largely a function of economic activity, there is relatively little that an airport operator can do to generate business traffic, *per se*, other than to be able to accommodate it as the economy improves and opportunities arise. There are but few "if you build it, they will come" situations in the airport business. When they do occur, these opportunities usually take the form of having developable space available for aviation oriented companies that happen to be looking for space in a specific geographical area.

The considerable amount of developable space with direct access to the airfield environment does represent an un-tapped

resource that might be utilized to propagate corporate activity. There is also a significant amount of property, some of which would need to be acquired, which provides both airfield and rail access. This area could, if properly developed, provide a multi-modal access point for the surrounding community and serve as the interface for "plane-train" tours. A multi-modal access system could potentially be leveraged to entice businesses to set up locations in Randolph County, possibly on the airport.

There is little doubt that the Elkins-Randolph County Regional Airport Authority's task of cultivating a vibrant, growing airport has become increasingly complex. With the ominous cloud of the recession still lingering, the Airport Authority now faces the task of guiding the airport through these difficult economic times towards the overall goal of achieving sustainability. With a facility well suited for further development and a constituency of forward thinking members, the Airport Authority now faces the challenge of defining and cultivating the airport's new direction.

This completes the Master Plan Report for the Elkins-Randolph County Regional Airport, but it does not complete the planning process. The Airport Authority should execute the projects listed in the development schedule of this document in a timely manner as local resources allow. No later than five years hence, the recommendations presented herein should be revisited in a comprehensive update of the Master Plan, modifying and re-scheduling, as necessary, the short-, intermediate- and long-term capital improvement projects that, upon their completion, ensure the ongoing development and prosperity of the airport enterprise and the community that it supports.

Attachment 6

Chapman Technical Group
a division of GRW

March 11, 2020

Randolph County Commission
4 Randolph Avenue, Suite 102
Elkins, West Virginia 26241

Re: Elkins-Randolph County Regional Airport
Elkins, West Virginia
Obstruction Removal
(Runway 5-23 Approaches)

Dear Commission Members:

Please find attached to this letter comments received during the public review period for the Short Environmental Assessment Form for Obstruction Removal (Runway 5-23 Approaches), AIP Project No. 3-54-0007-023-2016 at the Elkins-Randolph County Regional Airport in Elkins, West Virginia. The public comment period has ended, however, the Short Environmental Assessment Form is still available for viewing at elkinsairport.com.

Should you have any questions or concerns, you may contact me at (304) 472-8914 or mdefibaugh@chaptech.com. You may also contact the Elkins-Randolph County Regional Airport.

Sincerely,

CHAPMAN TECHNICAL GROUP

Melissa Defibaugh, PE
Project Manager

Attachments

CC: Elkins-Randolph County Regional Airport Authority

43 East Main Street
Buckhannon, WV 26201

304.472.8914
304.472.8915 Fax

St. Albans, WV
Lexington, KY

www.chaptech.com

March 11, 2020

Chapman Technical Group
a division of GRW

Elkins City Council
401 Davis Avenue
Elkins, West Virginia 26241

Re: Elkins-Randolph County Regional Airport
Elkins, West Virginia
Obstruction Removal
(Runway 5-23 Approaches)

Dear Council Members:

Please find attached to this letter comments received during the public review period for the Short Environmental Assessment Form for Obstruction Removal (Runway 5-23 Approaches), AIP Project No. 3-54-0007-023-2016 at the Elkins-Randolph County Regional Airport in Elkins, West Virginia. The public comment period has ended, however, the Short Environmental Assessment Form is still available for viewing at elkinsairport.com.

Should you have any questions or concerns, you may contact me at (304) 472-8914 or mdefibaugh@chaptech.com. You may also contact the Elkins-Randolph County Regional Airport.

Sincerely,

CHAPMAN TECHNICAL GROUP

Melissa Defibaugh, PE
Project Manager

Attachments

CC: Elkins-Randolph County Regional Airport Authority

43 East Main Street
Buckhannon, WV 26201

304.472.8914
304.472.8915 Fax

St. Albans, WV
Lexington, KY

www.chaptech.com

Attachment 7

Minutes for the Elkins-Randolph Co. Regional Airport Authority for August 9, 2016

Nils Heinke, President call the meeting to order at 5:06 pm. By roll call those present were: Nils Heinke, Steve Barnett, Larry Wing, Robert Woolwine, Craig Hyre, Dick Chaney and Beth Broschart, of The Intermountain.

Minutes for the July 12, 2016 meeting were reviewed. Bob Woolwine moved to approve the minutes as presented. Craig Hyre seconded the motion and the motion passed with Woolwine, Hyre, Barnett and Wing voting aye and 0 nay votes.

Larry Wing gave a financial report. He reported that income from fuel sales for July was higher than normal due to the National Guard operating out of the airport the last week of July and first week of August. Craig Hyre moved to approve the financial report as presented. Steve Barnett seconded the motion and the motion passed with Hyre, Barnett, Wing and Woolwine voting aye and 0 nay votes

Dick Chaney reported that the renovations for the upstairs offices have been completed at a cost of $5,671.19. The lease was signed on August 1, 2016 by the new tenant.

Hangar rates were discussed. Information on the square footage of the hangars was reviewed. Hangar rates can only be changed on July 1 with a 30 day written notice to the Lessee. Hangar rates will be revisited at a later date.

FAA Grant #023 application for Environmental Assessment of the Obstruction Removal Project for Rwy 5/23 was submitted for approval and signature. After discussing the grant, Larry Wing moved to approve the application and to authorize the President to sign the documents. Craig Hyre seconded the motion and the motion passed with Wing, Hyre, Woolwine and Barnett voting aye and 0 nay votes.

Dick Chaney submitted an outline of Financial Segregation of Duties for review and asked that it be made policy for financial operation. During past audits, Segregation of Duties has been charged against the airport. With this written policy, we hope to have a cleaner audit. Larry Wing moved to approve the Segregation of Duties as operating policy. Craig Hyre seconded the motion and

the motion passed with Wing, Hyre, Woolwine and Barnett voting aye and 0 nay votes.

Splitting of the FAA Lease payments for the Emerson Phares Building was discussed. In the past it was agree that the payments be split with 60% going into general funds and 40% going into the Emerson Phares Building repair account until the repair account reached $90,000. The repair account now has $60,000 and with the recent upgrades to the HVAC system and the fact that the Nature Conservancy has moved out of the building, the only major repair in the future would be the roof. Craig Hyre moved to suspend splitting the lease payments and deposit all the payment into the airport general funds. Should there be a major repair; the split would then be reactivated to build the account back to $60,000. Larry Wing seconded the motion and the motion passed with Hyre, Wing, Barnett and Woolwine voting aye and 0 nay votes.

Dick Chaney stated that the employee health benefits payments have normally been made to the WVPEIA by check. The WVPEIA has requested that the payments be made in the future by ACH bank transfer. Mr. Chaney asked that the Authority approve the request. Larry Wing moved to approve the request to change the policy of paying by check to paying by ACH bank transfer. Craig Hyre seconded the motion and the motion passed with Wing, Hyre, Woolwine and Barnett voting aye and 0 nay votes.

With no other business to discuss and no request for Executive Session, upon a motion duly made by Bob Woolwine and seconded by Craig Hyre the meeting was adjourned at 6:10 pm.

Approved by: _____

Minutes for the Elkins-Randolph Co. Regional Airport Authority for Septermber 13, 2016

Larry Wing, Treasurer called the meeting to order at 5:04 pm. By roll call those present were: Larry Wing, Robert Woolwine, Craig Hyre, Dick Chaney, Shawn Tucker, of Chapman Technical Group and Beth Broshart, of The Intermountain. Nils Heinke and Steve Barnett were absent.

Minutes for the August 9, 2016 meeting were reviewed. Hearing no objections or corrections, by unanimous consent the minutes were approved as presented.

Larry Wing reported on the financials. Fuel sales were up due to the National Guard and Rotor Blade. Craig Hyre moved to approve the financial report. Bob Woolwine seconded the motion and the motion passed with Hyre, Woolwine and Wing voting aye and 0 nay votes.

Shawn Tucker reported that the Environment Assessment for the obstruction removal project was nearly complete. He also reported that most of the property owners have been contacted and once that is complete the surveyor and appraiser can start looking at the trees. Mr. Tucker then presented the application for a West Virginia Aeronautics Commission (WVAC) Grant in the amount of $7,776.00 (5% of total grant amount) for approval and signature. After discussing the application, Craig Hyre moved to approve the application and to authorize Larry Wing to sign the application in the absence of President Nils Heinke. Bob Woolwine seconded the motion and the motion passed with Hyre, Woolwine and Wing voting aye and 0 nay votes. Shawn Tucker then discussed the obstruction removal on the approach to Rwy. 14. He reported that he and a forester were to meet with the property owners on Friday of this week to discuss what damage topping the trees would do.

With no other business to discuss and no request for Executive Session, upon a motion duly made by Bob Woolwine and seconded by Craig Hyre the meeting was adjourned at 5:20 pm.

Approved by: _____

Minutes for the Elkins-Randolph Co. Regional Airport Authority for October 11, 2016

Nils Heinke, President called the meeting to order at 5:05 pm. By roll call those present were: Nils Heinke, Larry Wing, Steve Barnett, Craig Hyre, Dick Chaney, Shawn Tucker, of Chapman Technical Group and Beth Broshart, of The Intermountain. Robert Woolwine was absent.

Minutes of the September 13, 2016 meeting were reviewed. With no objections or corrections, the minutes were approved by unanimous consent.

Larry Wing reported on the financial status of the airport. He indicated that income was up due to increased fuel sales for August and September.

Shawn Tucker reported that he had met with the land owners on the obstruction removal project for Runway 14. He reported that the land owners did not want the trees cut clear to the ground, only topped. Topping the trees is what the easement for the property allows. After discussing the project, the Authority decided that it would be too expensive to top the trees and would therefore elect to displace the threshold on Runway 14. Mr. Tucker also reported on the obstruction removal project for Runway 5-23. He indicated that one property owner on the Runway 23 approach objected to the removal of obstructions on his property. The Airport Authority already has an easement for this property. Mr. Tucker presented FAA Request #1 in the amount of $27,959.00 for approval and signature. Craig Hyre moved that the request be approved and that the President be authorized to sign the documents. Steve Barnett seconded the motion and the motion passed with Hyre, Barnett and Wing voting aye and 0 nay votes. The total cost of the Environment Assessment part of the obstruction removal project is $155,523.00. The FAA will contribute $139,971.00 (90%) the West Virginia Aeronautics Commission will contribute $7,776.15 (5%) and the Airport Authority will Contribute $7,776.15 (5%).

Larry Wing commented that with the construction of Corridor H, which should be completed in the next few years, there are no signs at the Elkins exit that would indicate that an airport exists in the area. He suggested that we contact the West Virginia Department of Highways and see if they will place airport signs at the Elkins exit of Corridor H which would advise people where to exit to travel to the airport.

With no other business to discuss and no request for Executive Session, upon a motion duly made by Craig Hyre and seconded by Larry Wing the meeting was adjourned at 5:38 pm.

Approved by: _____

Minutes for the Elkins-Randolph Co. Regional Airport Authority for November 8, 2016

Nils Heinke, President called the meeting to order at 5:10 pm. By roll call those present were: Nils Heinke, Larry Wing, Craig Hyre, Steve Barnett and Dick Chaney. Robert Woolwine was absent.

Minutes of the October 11, 2016 meeting were reviewed. With no objections or corrections, the minutes were approved by unanimous consent.

Larry Wing reviewed the financial statements.

FAA Draw #2 for Grant #023 in the amount of $11,404.00 was presented for approval and signature. Larry Wing moved to approve the request and to authorize the President to sign the documents. Steve Barnett seconded the motion and the motion passed with Wing, Barnett and Hyre voting aye and 0 nay votes. West Virginia Aeronautics Commission (WVAC) Draw #2 in the amount of $2,186.88 was presented for approval and signature. Craig Hyre moved to approve the request and to authorize the President to sign the documents. Larry Wing seconded the motion and the motion passed with Hyre, Wing and Barnett voting aye and 0 nay votes.

Dick Chaney reported that the construction of a divider partition in the back offices was nearing completion. This opened up the back to rent individual office space. Mr. Chaney also reported that he had rented one of the offices and two hangars this week.

Larry Wing reported that he is gathering information concerning the WV Department of Highways sign department in having airport directional signs posted at the exit of Corridor H.

With no other business to conduct and no request for Executive Session, upon a motion duly made by Craig Hyre and seconded by Larry Wing the meeting was adjourned at 5:30 pm.

Approved by: _____

Minutes for the Elkins-Randolph Co. Regional Airport Authority for December 13, 2016

Larry Wing, Treasure called the meeting to order at 5:17pm. By roll call those present were: Larry Wing, Steve Barnett, Craig Hyre, Robert Woolwine, Dick Chaney, Shawn Tucker, of Chapman Technical Group and Nils Heinke via video phone.

Minutes of the November 8, 2016 meeting were reviewed. With no objections or corrections, the minutes were approved by unanimous consent.

Larry Wing reviewed the financial statements. He indicated that fuel sales were up over all, but they are starting to decline due to seasonal sales. Dick Chaney reported that he had received support checks from the Randolph Co. Commission and the City of Elkins. He was directed to place the money in the Mountain Valley Bank savings account for now and to check the interest rate from banks on savings and Certificates of Deposit. Craig Hyre moved to approve the financial report as presented. Steve Barnett seconded the motion and the motion passed with Hyre, Barnett, Woolwine and Heinke voting aye and 0 nay votes.

The sale of the Club Aero property adjacent to the airport was discussed. It was determined that the Airport does not have use for the property at this time, but would make an offer to the bank if the property doesn't sale. Since the building would have to be demolished, the Airport would only make an offer for what the land was valued at.

Larry Wing discussed having the West Virginia Department of Highways place directional signs to guide the public to the airport from Corridor H. It was decided to send a letter to John Monk, Supervisor of the sign department, and ask for signs, along with directional arrows, on the east and west side of the Elkins exit of Corridor H, at the intersection of Randolph and Harrison Avenue and at the intersection of US33 and US219/250 (McDonalds).

Bob Woolwine made a request to move the meeting into Executive Session to discuss Employee matters. Larry Wing, Meeting Chairman, authorized the Executive Session at 5:58 pm under WV Code §6-9A-4. The Authority members exited the Executive Session at 6:07 pm with no action being taken.

Craig Hyre moved to give a year end stipend to the Airport Employees. The amount given to the Manager will be $1,000.00, the amount given to the full time employees will be $500.00 and the amount given to the part-time employees will be $250.00 with the appropriate payroll deductions being taken out. Bob Woolwine seconded the motion and the motion passed with Hyre, Woolwine, Barnett, Wing and Heinke voting aye and 0 nay votes.

With no other business to conduct, upon a motion duly made by Bob Woolwine and Seconded by Craig Hyre the meeting was adjourned at 6:15 pm.

Approved by: _____

Minutes for the Elkins-Randolph Co. Regional Airport Authority for January 10, 2017

The meeting was canceled due to not having any agenda.