

August 31, 2022

Via e-mail only

Mr. Kevin Ratkus
Senior Planner
Alachua County Environmental
Protection Department
408 W. University Avenue, Suite 106
Gainesville, Florida 32601

**Re Purchase from Colasante
Title letter
Our File No.: 20-1298.7 KN**

Dear Kevin:

Following your request, this letter addresses certain title exceptions included in the June 11, 2022 Title Insurance Commitment covering the subject property issued on behalf of Old Republic National Title Insurance Company. Specifically, the title exceptions discussed below are included in the items at Schedule B-II (5), (6), (7), and (8). The opinions offered below are made generally; the County's specific management plan or use of the subject property may in fact cause the County to arrive at a contrary opinion. All instruments are recorded in the Public Records of Alachua County, Florida.

Schedule B-II(5). This item excepts from title coverage the terms and conditions of the access easement instrument recorded at O.R. Book 1741, Page 1590. This instrument does not burden – but instead benefits - the subject property. That is, this 20 foot easement appears to provide access from a portion of the subject property northerly to County Road SE-10. A survey is required to confirm the easement location. The easement grantor (Nekoosa Packaging Corporation) reserved the right to impose additional burdens (construct transecting roads, etc.) on and within the access easement area during grantor's ownership of the easement area. This easement instrument is included as an exception (which is typical) because the title policy will not cover the terms and conditions (i.e., performance covenants) included in the instrument.

Opinion: Exception Schedule B-II(5) appears acceptable.

Schedule B-II(6). This item excepts from title coverage a 10 foot right of way and utility easement instrument recorded at O.R. Book 4107, Page 1400 granted by the current land owner in favor of

Clay Electric Cooperative. A utility location service and survey are required to confirm the easement location. If the easement is located on the subject property, it would appear to burden the property. Certain rights are granted to the utility company to access and maintain the subject utilities within the 10 foot wide easement area. This instrument appears to be a standard utility easement used for rural properties.

Opinion: Depending on easement location, exception Schedule B-II(6) appears acceptable.

Schedule B-II(7). This item excepts from title coverage certain deed restrictions set out in the instrument recorded at O.R. Book 4156, Page 2093. The current land owner imposed the restrictions on the property. The restrictions limit the property to conservation uses and purposes. A survey is required to confirm the location of the area encumbered by the restrictions. On preliminary review, it is likely only a small portion of the restricted property will impact the property being purchased by the County. Regardless, the party charged with enforcing the restrictions is the County.

Opinion: Exception Schedule B-II(7) appears acceptable.

Schedule B-II(8). This item excepts from title coverage certain interests for (a) oil, gas, and minerals (“**OGM**”) and (b) road rights of way (“**ROW**”), both in favor of the Trustees of the Internal Improvement [Trust] Fund of the State of Florida (“**TIIF**”) as reserved in the instrument recorded at O.R. Book 206, Page 338. This instrument only covers Government Lot 11 in Section 34, Township 11 South, Range 22 East.

OGMs The retained interests include an undivided one-half (1/2) interest in oil and gas products; an undivided three-fourths (3/4) interest in all other minerals; and the right to explore for, mine, and develop these resources within the property burdened by the instrument’s reservations. As a holder of these OGM interests, the State further holds in perpetuity the “right of entry” to access the OGMs over and through the surface of the property to locate and extract (if any) the OGMs. This activity assumes the State is required to, and does in fact, secure the necessary permits and approvals from the appropriate governing bodies (county, federal, etc.). These rights could be exercised either by the State directly, or through successors in interest to the State through lease or sale of the OGM interests.

Section F.S. 270.11 permits the TIIF to release at its discretion any reserved interest (like the OGMs) or any portion thereof (i.e., the right of entry) in or as to any particular parcel of land. Such release may be made following application by the owner of the title to the particular parcel of land with a statement of reason justifying such release.

For the subject property, since Government Lot 11 appears to be more than 20 acres (~46 acres), the right of entry for the OGMs would be active (unless it was previously released by the TIIF). Accordingly, upon closing, the County would hold title subject to the OGMs, including the right of entry from and through the land surface.

ROW These ROW reservations allow the State (and presumably its successors or assigns) to use and develop for state road right of way purposes those certain lands lying within 100 feet either side of the centerline of the state roadway existing on the date of the TIF deed.

Since the subject property lies adjacent to US Highway 301, it is possible the westerly portion of the property is subject to the road right of way reservations. A survey and confirmation US 301 was a state road in 1944 are required to know if the ROW reservation impacts the subject property.

These specific OGM and ROW reservations appear to be the standard reservations included in TIF deeds. The County has encountered similar such TIF reservations in previous conservation lands purchases – most recently in both the Hitchcock’s Ranch conservation easement and the Lochoosa Slough – Fox Pen Connector projects. The County accepted the title for those two project properties with the TIF deed reservation title exceptions in place.

Opinion: Considering the County’s recent precedent, exception Schedule B-II(8) appears acceptable. For the OGMs, the County may consider applying to the State after closing for a release of the OGM or the right of entry interests in the subject property. We do not have the information to form an opinion on the chances the State would release all or any of these interests.

Following your review, please contact me with questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Menet', with a stylized flourish at the end.

David E. Menet