

November 3, 2023

Via email only: mbird@alachuacounty.us

Mr. Michael Bird
Conservation Lands Negotiator
Alachua County Environmental
Protection Department
408 W. University Avenue, Suite 106
Gainesville, Florida 32601

**Re: Purchase from Sara Vera Jackson Heirs
Title Letter
Our File No.: 22-0046.7 KN**

Dear Michael:

This letter addresses certain title exceptions included in the March 15, 2023 Title Insurance Commitment (the “**Commitment**”) issued on behalf of Old Republic National Title Insurance Company (the “**Title Company**”) as to parcels the County intends to purchase from the Heirs of Sara Vera Jackson, namely Parcel “A” (Tax Parcel Number 20069-000-000) and Parcel “B” (Tax Parcel Number 20078-000-000) as stated on the Commitment (collectively, the “**Property**”). This letter covers six (6) title exceptions included on Schedule B-II of the Commitment, being Items 5, 6, 7, 8, 9, and 11 (collectively, the “**Exceptins**”).

Broadly speaking, the Exceptions identify rights or grants in favor of private parties to explore for, extract, and benefit from oil, gas, and minerals (“**OGMs**”) that may exist in, on, or under the Property. The Exceptions are itemized as follows (all instruments recorded in the Public Records of Alachua County, Florida) and remove from title insurance coverage claims or matters arising out of the instruments recorded at:

- A. **SCHEDULE B-II (5).** Deed Book 909, Page 99.
- B. **SCHEDULE B-II (6).** Deed Book 943, Page 477.
- C. **SCHEDULE B-II (7).** Deed Book 1748, Page 753.
- D. **SCHEDULE B-II (8).** Deed Book 1882, Page 2035.
- E. **SCHEDULE B-II (9).** Deed Book 2234, Page 2627.
- F. **SCHEDULE B-II (11).** Deed Book 4106, Page 2388.

The opinion offered below is made generally; the County’s specific management plan or use of the Property may in fact cause the County to arrive at a contrary opinion.

OPINION

Based on our research, it appears the Exceptions currently are active and identify grants to private parties to enter the Property and explore for, extract, and otherwise benefit from OGMs that may exist in, on, or under the Property. In the event any such exploration, extraction, or associated OGM activities cause loss, injury, or damage to the Property, the County would not be protected by the Title Company.

Following our request, Mr. Stephen Hofstetter, Director of the Alachua County Environmental Protection Department, issued a letter dated October 25, 2023 regarding Oil, Gas & Minerals (OGM) Evaluation for parcel[s] # 20069-000-000 & 20078-000-000 (a copy of this letter is attached). In his letter, Mr. Hofstetter advised mining or excavation and fill operations not currently in existence on the Property only would be allowed if an applicant followed proper permitting procedures with the County: “[A]ctivities related to a new or expanded mining or excavation and fill operations shall not commence until a Special Use Permit (SUP) has been issued by the Board of County Commissioners (BOCC) and a development plan, meeting the conditions of the Special Use Permit, has been approved by the Development Review Committee (DRC)(Sec. 404.95 ULDC).”

Mr. Hofstetter reviewed various site-specific conditions of the Property (i.e., wetlands cover signification portions; high groundwater table; insufficient upland areas to contain withdrawn water; setback limitations; etc.). Noting such conditions, he concluded “from a regulatory standpoint there doesn’t appear to be any portion of the [Property] that could be adequately and appropriately planned and designed to receive SUP authorization for proposed OGM activities.”

Accordingly, while rights of entry to explore for and extract OGMs from the Property appear to exist under the Exceptions (and assuming no current OGM activity occurs on or has been permitted for the Property), it seems unlikely the holder of an OGM right included in the Exceptions actually could secure the required legal entitlements from Alachua County to permit any new mining, excavation, or fill operations on the Property. Based on the foregoing, it appears the Exceptions present a low risk the County could suffer actual loss, injury, or damage to the Property arising out of the Exceptions.

Following your review, please contact me with questions.

Sincerely,



David E. Menet

CC (via email only):

Andi Christman

Dave Forziano, Esq.



Alachua County Environmental Protection Department

Stephen Hofstetter, *Director*

October 25, 2023

David E. Menet

3940 NW 16 Blvd. Bldg. B

Gainesville, FL 32605

RE: Oil, Gas & Minerals (OGM) Evaluation for parcel # 20069-000-000 & 20078-000-000

Dear Mr. Menet,

The Title Insurance Commitment (March 15, 2023) issued on behalf of the Old Republic National Title Insurance Company identifies six (6) instruments which apparently encumber the subject site with outstanding OGM interests in favor of private parties who could potentially investigate rights to explore and/or extract OGMs from the Property.

Regulated natural resources are evaluated for properties associated with proposed OGM projects (Alachua County's Unified Land Development Code (ULDC) – *Chapter 404, Article XXIV, Mining or Extraction and/or Fill Operations*). Mining or excavation and fill operations may be permitted, subject to the requirements of this Article and other applicable requirements in this ULDC, only within areas designated rural/agriculture on the Future Land Use Map (Section 404.94 ULDC). The parcels currently have a Future Land Use designation of rural/agriculture, however activities related to a new or expanded mining or excavation and fill operations shall not commence until a Special Use Permit (SUP) has been issued by the Board of County Commissioners (BOCC) and a development plan, meeting the conditions of the Special Use Permit, has been approved by the Development Review Committee (DRC)(Sec. 404.95 ULDC). The following mining-related activities are prohibited based on Section 404.96 ULDC – *General Standards for Mining or Excavation & Fill Operations*.

Wetlands & Surface Waters – Mining, excavation, or filling shall not be permitted in surface waters or wetlands, except as provided in the applicable requirements of this ULDC. Nor shall water be diverted from natural stream channels and drainage ways shall not be interrupted or relocated except as provided in the approved development plan.

Site Specific Conditions – *Considering that half the subject site is comprised of wetlands, this condition alone would substantially restrict the ability to conduct mining or extraction activities.*

Operations in Groundwater - Mining, excavation, or filling shall not be permitted in groundwater of the Floridan or intermediate aquifer systems, except as provided in the applicable requirements of Chapter 40C-2, Florida Administrative Code. Groundwater withdrawals permitted as part of an

approved mining or excavation and fill operation shall not result in a lowering of the potentiometric levels of an aquifer beyond the boundaries of the approved mining or excavation and fill operation.

Site Specific Conditions – *With the high groundwater conditions associated with the site, dewatering would be necessary to drawdown water levels to extract any OGM resources that may be associated with the site. With the close mosaic configuration of the wetlands relative to the uplands, and comparatively small subject site, such dewatering would not only result in hydrologic impacts to the wetlands but also lower the potentiometric levels of the groundwater within and beyond the boundaries of the site.*

Degradation of Water Quality - All surface drainage from site runoff shall be directed away from open pit excavations to avoid groundwater contamination. Pollutants or substances of any kind which may be detrimental to water quality shall not be permitted to enter the surface drainage system or the groundwater system through sinkholes on or adjacent to the site.

Site Specific Conditions – *With dewatering necessary for extracting any OGM resources on the site, there are insufficient conditions or even the potential of “open pit excavations” in the small configurations of uplands where decanted water could even be contained on site. As a result, there would be substantial risk to on- and off-site water quality degradation of both the surficial as well as groundwater conditions.*

Minimum Setbacks for Mining or Excavation & Fill Activities (Section 404.97ULDC) - In addition to the substantial restrictions the existing wetland and water resource conditions would present in being able to prepare an OGM plan that could achieve BOCC authorization, each OGM plan is also required to demonstrate the ability to comply with minimum setbacks on and adjacent to the site based additional regulated resources, facilities, and the Future Land Use designations of surrounding properties. These features and designations are referenced minimum setback criteria are referenced in the adjacent Table 404.97.1.

Table 404.97.1 Minimum Setbacks for Mining or Excavation and Fill Activities		
Adjacent Natural Features or Future Land Use Designations	Minimum Required Setback from Property Line (in feet)	
	Mining Activities ¹	Excavation and Fill Activities ²
Public ROW or public or private utility easement	200	50
100-year floodplains	200	200
Identified conservation areas	500	250
Potable water wells	500	500
Urban Residential or Estate Residential	1,000	150
Conservation or Preservation	1,000	250
Commercial or Tourist/Entertainment	250	150
Institutional or Recreation	500	250
Industrial	200	100
Rural/Agriculture	200	100
¹ Includes processing plants, ponds, or structures for settling, thickening, tailings, and slime.		
² Includes spoil piles, stockpiles, or storage of materials.		

When evaluating the wetland & water resource restrictions in relation to the other regulated natural resource features (e.g. 100 yr. floodplain, *Strategic Ecosystem*, *Significant Habitat*), and limitations due to adjacent properties including the Alachua County Lochloosa Preserve – Fox Pen Connector Preserve property (<https://mapgenius.alachuacounty.us/#parcelid=20072-005-000>, <https://mapgenius.alachuacounty.us/#parcelid=20062-000-000>), from a regulatory standpoint there doesn't appear to be any portion of the subject site that could be adequately and appropriately planned and designed to receive SUP authorization for proposed OGM activities.

Please contact me at shofstetter@alachuacounty.us or at (352) 264-6811 or Mark Brown, mbrown@alachuacounty.us or at (352) 264-6815 if you have any questions or need additional information.

Thank you,

A handwritten signature in black ink that reads "Stephen Hofstetter". The signature is written in a cursive, flowing style.

Stephen Hofstetter

CC: Andi Christman
Michael Bird
Dave Forziano
Mark Brown