



United States Department of the Interior

OFFICE OF THE SOLICITOR

Washington, D.C. 20240

April 8, 2015

IN REPLY REFER TO:
Appeal No. 2013-104

George Barbato

EX6

Bloomington, MN 55438

Dear Mr. Barbato:

This responds to the June 1, 2013, Freedom of Information Act (“FOIA”) appeal (“appeal”) (**No. 2013-104**) that you filed with the Department of the Interior (“Department”). Your appeal concerns your January 30, 2013, FOIA request to the National Park Service (“NPS”) that sought information pertaining to a “boundary dispute between [your] property and the [NPS] Tract 404-19, near Myersville[,] Maryland.” You specifically excluded from your request “[a]ll written correspondence to and from Barbato[] and the NPS...” In response to the FOIA request, the NPS released some documents and invoked FOIA exemption (5),¹ specifically, the attorney-client² and attorney work-product³ privileges, to withhold 61 pages in their entirety.

As an initial matter, the Department notes that 19 of the withheld pages are not responsive to your FOIA request: 13 pages consist of letters that you sent to the NPS and six pages are letters from the NPS to you. Since you explicitly excluded these types of documents from the scope of the materials that you were seeking, the NPS should not have considered or processed the 19 pages in response to your FOIA request. Nonetheless, the Department will release these 19 pages to you for your reference (even though it is not obligated to do so), as they are not protected from disclosure by any FOIA exemption.

With respect to the other 42 withheld pages, your appeal is **GRANTED IN PART** in that none reflects information that is protected from disclosure by the attorney work-product privilege of exemption (5). As a result, the NPS should not have invoked the privilege as a basis to withhold any of the documents. Your appeal is also granted insofar as 23 of the pages do not contain any information that is protected from disclosure by any FOIA exemption and, thus, should not have been withheld. The Department has attached these 23 pages to this decision for release to you in their entirety.

Your appeal is **DENIED IN PART** in that the Department will continue to withhold information on eight of the pages that is protected from disclosure by exemption (5). Seven of these pages, portions of which the Department will continue to withhold pursuant to the attorney-client privilege, reflect confidential communications between the NPS and its attorneys where NPS personnel sought legal advice and the attorneys provided such advice. The Department will also invoke the deliberative

¹ Exemption (5) protects “inter-agency or intra-agency memorandums or letters which would not be available by law to a party...in litigation with the agency.” 5 U.S.C. § 552(b)(5).

² The attorney-client privilege of exemption (5) protects confidential communications made by a client to his/her attorney and also protects from disclosure certain communications provided by an attorney to his/her client. See *Maine v. United States Dep’t of the Interior*, 298 F.3d 60 (1st Cir. 2002).

³ The attorney work-product privilege protects from disclosure any materials prepared by or for a party or its attorney or by or for a party’s representative in anticipation of litigation that reflect the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party concerning the litigation. See *Hertzberg v. Veneman*, 273 F. Supp. 2d 67, 75 (D.D.C. 2003).

process privilege⁴ of exemption (5)⁵ as a basis to withhold this information on the seven pages, as it also reflects the NPS's internal deliberations on the issue that was under discussion and reflects the give-and-take of the consultative process.

The Department notes that the NPS waived protection over one portion of confidential communications that its employee had with his attorney when he included that protected information in a letter that he sent to a party outside of the attorney-client relationship. The deliberative process privilege also does not apply to the information, as the NPS employee stated in the letter to the third party that the action he said he was taking was based on the advice of his attorney, thereby adopting that aspect of the attorney's recommendation on how he believed the NPS should proceed. Since this information is not protected from disclosure by any other FOIA exemption/privilege, the Department will release it to you. As to the other protected information on the above-referenced seven pages, there is nothing that establishes that the NPS waived the confidentiality of those communications or its ability to invoke a FOIA exemption or privilege as a basis to withhold the information. Therefore, the Department will continue to withhold the information pursuant to the attorney-client and deliberative process privileges of exemption (5).

Additionally, the Department is invoking the deliberative process privilege of exemption (5) as a basis to withhold information on an additional document that reflects the NPS's predecisional deliberations on the subject that is underlying your FOIA request.

The Department has attached to this decision the eight pages discussed above with the protected information redacted. The Department has marked the areas of the deletions and, on seven of the pages, used the code "EX5(ACP)/(DPP)" to identify the information that it is continuing to withhold under the attorney-client and deliberative process privileges of exemption (5). The Department used the code "EX5(DPP)" to identify the information that it is continuing to withhold on one page only under the deliberative process privilege of exemption (5).

Finally, for the last 11 pages of the withheld materials,⁶ the record before the Department is not clear on why the NPS determined that these pages meet the exemption (5) threshold requirement of being "inter-agency or intra-agency" communications. However, it is not necessary for the Department to delve into the threshold issue for these 11 pages, because even if any of them satisfied the exemption (5) threshold, none reflects information that is protected from disclosure by one of the privileges in the exemption, i.e., the attorney-client, deliberative process, or attorney work-product privileges.

Nonetheless, the Department cannot release these 11 pages to you at this time, as there is insufficient information on the record for it to determine whether any other FOIA exemption applies to any of their contents, e.g., FOIA exemption (4),⁷ or whether the NPS considered any.

⁴ The deliberative process privilege protects the decisionmaking process of government agencies in order to prevent injury to the quality of agency decisions. *Sierra Club, et al. v. United States Department of Interior, et al.*, 384 F. Supp. 2d 1, 15 (D.D.C. 2004).

⁵ There is nothing in the FOIA or current case law that precludes the Department from invoking a new exemption (5) privilege as a basis for the withholding.

⁶ The 11 pages consist of two letters totaling three pages from a Title Insurance company to the NPS and eight pages of largely illegible Title Insurance Policy documents.

⁷ Exemption (4) allows an agency to withhold from public disclosure "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential." 5 U.S.C. § 552(b)(4).

Therefore, to resolve the issue of whether a FOIA exemption other than exemption (5) applies to these 11 pages (or portions thereof), **by copy of this letter, the Department will REMAND them to the NPS for it to:**

- **Assess whether another FOIA exemption applies to any portion of the 11 pages.**
 - Should the NPS determine that it needs to consult with the entity from which these pages derived⁸ before it can determine whether another FOIA exemption applies, it will advise the Appellant of its need to do so in accordance with the requirements set forth in the Department's FOIA regulations.⁹
 - If the NPS determines to invoke a FOIA exemption other than exemption (5) as a basis to withhold any of the pages (or portions thereof), it will advise the Appellant of its determination and include in its letter all of the information that the Department's FOIA regulations require a bureau to advise a requester of when it makes such a determination.¹⁰
- **Within 22 workdays from the date of this decision:**
 - Assert another FOIA exemption as a basis to withhold the 11 pages (or portions thereof); and/or
 - Release any pages (or portions of the pages) for which the NPS determines no other FOIA exemptions applies.

The NPS will correspond directly with you regarding the remand, with a copy of its letter(s) to this Office.

This completes the Department's response to your appeal. You have a right to seek judicial review of this decision under 5 U.S.C. § 552(a)(4)(B).

If you have any questions regarding this matter, please call the FOIA Appeals Office at (202) 208-5339.

Sincerely,



Darrell R. Strayhorn
FOIA Appeals Officer
Department of the Interior

cc: Charis Wilson, FOIA Officer, NPS (**FOR ACTION**)
Cindy Cafaro, Departmental FOIA Officer

⁸ See 43 C.F.R. §§ 2.26(b), 2.27 (explaining when a bureau will consult with a submitter of possibly confidential information).

⁹ 43 C.F.R. § 2.35(a).

¹⁰ 43 C.F.R. § 2.24(b)(1)-(5).

CHICAGO TITLE INSURANCE COMPANY

2111 South 67th Street, Suite 210, Omaha, NE 68106 • Tel: (402) 498.7000 • (888) 453-4095



December 21, 2012

Sent By U.S. Mail

Donald T. King
U.S. Department of the Interior
National Park Service
National Trails Land Resources Program Center
PO Box 908
Martinsburg, WV 25402-0908

RECEIVED

DEC 21 2012

National Trails Land
Resources Program Center

RE: Claim No.: 425414
Your File No.: L1425(2541)
Policy No.: 21-0687-0041
Insured: The United States of America
Property: Tract 404-19 As Described in Schedule A, Frederick County, MD

Dear Mr. King:

As you know, the above-referenced claim that you submitted on behalf of the United States of America (the "Government") to Chicago Title Insurance Company, as successor to Ticor Title Insurance Company (the "Company") under the above-referenced owner's policy of title insurance (the "Policy") has been transferred to me. The Company previously sent you a written coverage determination dated March 2, 2012 affording coverage for the alleged overlap.

The Company reviewed the chain of title of the Property and the options available to the Company for resolving the claim pursuant to, and in accordance with, the terms and conditions of the Policy, and determined that at this point in time nothing further is required of the Company. The Barbatos have sent correspondence demanding the issue of the alleged overlap be resolved, but they have not yet made any legal attempts to enforce any rights they purportedly have in the Property. In other words, the Barbatos have not filed a lawsuit against the Government regarding the Property.

Under these circumstances, it is the position of the Company that the Government's claim is not ripe at this time. In the meantime, should a legal action be initiated in which the Government's title to the Property is attacked, please forward all documents concerning any such action to me. The Company will, however, keep our claims open and on a monitor status. If in the future an action is commenced, in which the Government's fee simple title to the Property becomes at issue, please notify me immediately.

If you do not agree with the Company's position as stated herein and believe that the Company has some additional present obligations with respect to this matter, please let me know.

Donald T. King, NPS
Claim # 425414
February 29, 2012
Page 2

Of course, if you have any questions or concerns with regard to the above, please do not hesitate to contact me at (402) 970-3878 or by email at Charity.Bolling@fnf.com. Please reference the above claim number in all correspondence with my office.

Thank you for your assistance and patience in resolving this matter.

Very truly yours,

A handwritten signature in black ink that reads "Charity Bolling". The script is cursive and fluid, with the first name "Charity" and last name "Bolling" clearly distinguishable.

Charity Bolling



Norton, Kirk <kirk_norton@nps.gov>

Claim 425414 - Your file no. L1425(2541)

1 message

Jeanne.NeumannGlasford@fnf.com <Jeanne.NeumannGlasford@fnf.com>

Wed, Jul 11, 2012 at 10:37 AM

To: donald_t_king@nps.gov

Cc: kirk_norton@nps.gov

Good morning Mr. King,

This claim has recently been transferred to me for administration. The Company has a title search pending, which I should receive early next week. Please let me know if you have any questions or concerns.

I look forward to working with you on this matter.

Thank you,

Jeanne

Jeanne E. Neumann Glasford

AVP | Associate Claims Counsel

Fidelity National Title Group - Omaha Claims Center

2111 S. 67th St., Suite 210

Omaha, NE 68106

Jeanne.Glasford@fnf.com

Phone: 402-493-7777 Direct: 402-492-0283

Fax: 402-498-7894

Please note address change as of June 1, 2012.

Disclaimer regarding Uniform Electronic Transactions ("UETA") Fla. Statutes section 668.50: If this transmission concerns negotiation of a contract or agreement, whether UETA applies or not, contract formation in this matter shall occur only with manually affixed original signatures on original documents.

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2/6/13

DEPARTMENT OF THE INTERIOR Mail - Fw: Our Claim #425414/Your File #L1425(2541)/Tract 404-19



Donald T. King <donald_t_king@nps.gov>

Fw: Our Claim #425414/Your File #L1425(2541)/Tract 404-19

2 messages

Donald_T_King@nps.gov <Donald_T_King@nps.gov>
 To: Kirk_Norton@nps.gov

Wed, Feb 29, 2012 at 9:57 AM

I sent it to Nick in error, should have been you.

Donald T. King, Realty Officer
 National Trails Land Resources Program Center
 Phone 304 263-4943 FAX 304 267-8374

----- Forwarded by Donald T King/WASO/NPS on 02/29/2012 09:57 AM -----

**Donald T
 King/WASO/NPS**

To: Nick Craig/WASO/NPS, marcia.gittes@sol.doi.gov

cc

02/29/2012 09:57
 AM

Subject: Fw: Our Claim #425414/Your File #L1425(2541)/Tract
 404-19

fyi

Donald T. King, Realty Officer
 National Trails Land Resources Program Center
 Phone 304 263-4943 FAX 304 267-8374

----- Forwarded by Donald T King/WASO/NPS on 02/29/2012 09:56 AM -----

"Stodghill, Michael"
 <Michael.Stodghill@fnf.com>

To: "donald_t_king@nps.gov"
 <donald_t_king@nps.gov>

02/29/2012 09:47 AM

cc

Subject: Our Claim #425414/Your File
 #L1425(2541)/Tract 404-19

Dear Mr. King:

I received your letter dated February 23, 2012, for which I thank you. I believe that I have all of the information I need to analyze the claim. I anticipate I will have a written coverage determination prepared shortly. Thank you for your assistance and patience and please feel free to contact me if you have any further questions about the claim.

Best regards,

Michael A. Stodghill
 Senior Claims Counsel

Fidelity National Title Group
6601 Frances Street
Omaha, NE 68106
Tel: (888) 453-4095 | Direct: (402) 498-7105
Fax: (402) 970-3820
Email: Michael.Stodghill@fnf.com



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Donald_T_King@nps.gov <Donald_T_King@nps.gov>
To: Kirk_Norton@nps.gov

Thu, Mar 1, 2012 at 1:39 PM

Donald T. King, Realty Officer
National Trails Land Resources Program Center
Phone 304 263-4943 FAX 304 267-8374
----- Forwarded by Donald T King/WASO/NPS on 03/01/2012 01:39 PM -----

[Quoted text hidden]

2/6/13

DEPARTMENT OF THE INTERIOR Mail - Our Claim #425414/Your File # 1425(2541)/Tract 404-19



To: Donald_t_king@nps.gov

Our Claim #425414/Your File #L1425(2541)/Tract 404-19

1 message

Michael.Stodghill@fnf.com <Michael.Stodghill@fnf.com>
To: donald_t_king@nps.gov

Wed, Feb 29, 2012 at 9:49 AM

Dear Mr. King:

I received your letter dated February 23, 2012, for which I thank you. I believe that I have all of the information I need to analyze the claim. I anticipate I will have a written coverage determination prepared shortly. Thank you for your assistance and patience and please feel free to contact me if you have any further questions about the claim.

Best regards,

Michael A. Stodghill

Senior Claims Counsel

Fidelity National Title Group

6601 Frances Street

Omaha, NE 68106

Tel: (888) 453-4095 | Direct: (402) 498-7105

Fax: (402) 970-3820

Email: Michael.Stodghill@fnf.com

cid:image007.jpg@01CC5CC5.CAFF8D80

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2/6/13

DEPARTMENT OF THE INTERIOR Mail - Our Claim #425414/Your File #1425(2541)/Tract 404-19

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CHICAGO TITLE INSURANCE COMPANY

6601 FRANCES STREET, OMAHA, NE 68106 • TEL: (402) 498-7000 • (888) 453-4095



February 24, 2012

RECEIVED

FEB 27 2012

National Wildlife Land
Resources Program Center

United States Department of the Interior
Donald T. King
PO Box 908
Martinsburg, WV 25402

RE: Claim Number: 425414
 Policy/Escrow No: 21-0687-0041, 21-0687-0041
 Insured: The United States of America
 Property: 7.978 acres
 Frederick, MD

Dear Mr. King:

The Company is continuing its investigation of the claim submitted. The Company is reviewing all documentation gathered thus far in order to render a coverage determination, if additional information is needed you will be contacted.

Please contact me via email at michael.stodghill@fnf.com or by phone at (888) 453-4095 with any questions you may have.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael Stodghill".

Michael Stodghill
Senior Claims Counsel

CHICAGO TITLE INSURANCE COMPANY

6601 FRANCES STREET, OMAHA, NE 68106 • TEL: (402) 498-7000 • (888) 453-4095

January 27, 2012

RECEIVED

JAN 31 2012

NATIONAL TRAILS LAND
Resources Program Center**Sent By U.S. Mail and E-Mail (Donald T. King@nps.gov)**

Donald T. King
U.S. Department of the Interior
National Park Service
National Trails Land Resources Program Center
PO Box 908
Martinsburg, WV 25402-0908

RE: Claim No.: 425414
Your File No.: L1425(2541)
Policy No.: 21-0687-0041
Insured: The United States of America
Property: Tract 404-19 As Described in Schedule A, Frederick County, MD

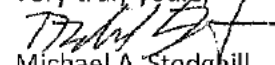
Dear Mr. King:

I have been assigned to administer the above-referenced claim that you submitted to Chicago Title Insurance Company, as successor to Ticor Title Insurance Company (the "Company") under the above-referenced owner's policy of title insurance. The Company is currently investigating the claim so as to be able to provide you with a written coverage determination as to whether or not the claim is covered under the Policy. The Company has determined that it needs additional information from you to assist in the investigation. Please provide me the following documents and information at your earliest convenience:

1. *Legible copies of the title policy and other document once pulled from archives, as referenced in your previous e-mail communications with the Company.*
2. *Copies of the 1984 survey by William C. Sarge Engineering and Surveying Company noted in your letter to the Company of January 6, 2012.*
3. *Copies of any additional correspondence with the Barbatos not previously provided with the materials submitted to the Company to date.*
4. *Copies of the binders of materials submitted to you by Mr. Barbato, as referred to in your letter of January 6, 2012.*
5. *Copies of any other surveys or plats of the Property within the possession, custody, or control of the United States.*

Please feel free to send these materials directly to my attention at the address on this letterhead. Please feel free to contact me at any time should you have any questions about your claim. I can be reached by phone at (402) 498-7105 (direct), or by e-mail at michael.stodghill@fnf.com. Please refer to our claim number in any correspondence with the Company.

Very truly yours,


Michael A. Stodghill
Senior Claims Counsel



Norton, Kirk <kirk_norton@nps.gov>

RE: Fw: Title Policy, Appalachian Trail, National Park Service

1 message

Valerie.Burleigh@fnf.com <Valerie.Burleigh@fnf.com>

Mon, Jan 30, 2012 at 4:35 PM

To: Kirk_Norton@nps.gov

Thank you so very much for the additional documentation. The claim has been assigned to Michael Stodghill under claim number T425414. I will forward the additional documentation to him.

Valerie Burleigh
Fidelity National Title Group
Intake Department
Omaha Claims Center
6601 Frances St.
Omaha, NE 68106
Phone: (402) 970-3865
Fax: (402) 970-3702
E-mail: Valerie.Burleigh@fnf.com

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-----Original Message-----

From: Kirk_Norton@nps.gov [mailto:Kirk_Norton@nps.gov]
Sent: Monday, January 30, 2012 3:27 PM
To: Burleigh, Valerie
Cc: Donald_Kirk@nps.gov; Joe_Sobinovsky@nps.gov
Subject: RE: Fw: Title Policy, Appalachian Trail, National Park Service

Valerie

Attached please find various title documents issued by Ticor for APPA Tract 404-19. Please let me know if you need anything else.

(See attached file: 19850227_404-19_Title_Ins_Endorse.pdf) (See attached file: 19850227_404-19_Title_Ins_Policy.pdf) (See attached file: 19850227_404-19_Title_Ins_Endorse_B.pdf) (See attached file: 19850227_404-19_Title_Ins_Endorse.pdf) (See attached file: 19850227_404-19_Title_Ins_Endorse_A.pdf)

Kirk W. Norton, PS, LS, PLS

Land Surveyor

National Park Service

National Trails Land Resources Program Center P.O. Box 908 Martinsburg, WV 25402-0908

Telephone: 304-263-4943

Fax: 304-267-8374

Donald T

King/WASO/NPS

To

01/19/2012 03:16

Kirk Norton/WASO/NPS@NPS

PM

cc

Subject

Fw: Title Policy,

Appalachian

Trail, National Park

Service

Donald T. King, Realty Officer

National Trails Land Resources Program Center

Phone 304 263-4943 FAX 304 267-8374

----- Forwarded by Donald T King/WASO/NPS on 01/19/2012 03:16 PM -----

"Burleigh,
Valerie"

<Valerie.Burleigh

@fnf.com>

"Donald_T_King@nps.gov"

To

<Donald_T_King@nps.gov>

01/19/2012 01:09

cc

PM

"Joe_Sobinovsky@nps.gov"

<Joe_Sobinovsky@nps.gov>

Subject

RE: Title Policy,

Appalachian

Trail, National Park

Service

I appreciate your assistance and look forward to hearing from you again!!

2/6/13

DEPARTMENT OF THE INTERIOR Mail - Re: Fw: Title Policy, Appalachian Trail, National Park Service



Re: Fw: Title Policy, Appalachian Trail, National Park Service

1/19/2012

Kirk_Norton@nps.gov <Kirk_Norton@nps.gov>
 To: Valerie.Burleigh@fnf.com
 Cc: Donald_T_King@nps.gov, Joe_Sobinovsky@nps.gov

Mon, Jan 30, 2012 at 4:26 PM

Valerie

Attached please find various title documents issued by Ticor for APPA Tract 404-19. Please let me know if you need anything else.

(See attached file: 19850227_404-19_Title_Ins_Endorse.pdf)(See attached file: 19840227_404-19_Title_Ins_Policy.pdf)(See attached file: 19910801_404-19_Title_Ins_Endorse_B.pdf)(See attached file: 19920310_404-19_Title_Ins_Endorse.pdf)(See attached file: 19910801_404-19_Title_Ins_Endorse_A.pdf)

Kirk W. Norton, PS, LS, PLS
 Land Surveyor
 National Park Service
 National Trails Land Resources Program Center
 P.O. Box 908
 Martinsburg, WV 25402-0908
 Telephone: 304-263-4943
 Fax: 304-267-8374
 Donald T King/WASO/NPS

Donald T
 King/WASO/NPS

ToKirk Norton/WASO/NPS@NPS

01/19/2012 03:16
 PM

cc

SubjectFw: Title Policy, Appalachian Trail, National Park Service

Donald T. King, Realty Officer
 National Trails Land Resources Program Center
 Phone 304 263-4943 FAX 304 267-8374

----- Forwarded by Donald T King/WASO/NPS on 01/19/2012 03:16 PM -----

"Burleigh, Valerie"
 <Valerie.Burleigh@fnf.com>

To"Donald_T_King@nps.gov"
 <Donald_T_King@nps.gov>

01/19/2012 01:09 PM

cc"Joe_Sobinovsky@nps.gov"
 <Joe_Sobinovsky@nps.gov>

SubjectRE: Title Policy, Appalachian Trail, National

2/6/13 DEPARTMENT OF THE INTERIOR Mail - Re: Fw: Title Policy, Appalachian Trail, National Park Service
Park Service

I appreciate your assistance and look forward to hearing from you again!!

Valerie Burleigh
Fidelity National Title Group
Intake Department
Omaha Claims Center
6601 Frances St.
Omaha, NE 68106
Phone: (402) 970-3865
Fax: (402) 970-3702
E-mail: Valerie.Burleigh@fnf.com

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-----Original Message-----

From: Donald_T_King@nps.gov [mailto:Donald_T_King@nps.gov]
Sent: Thursday, January 19, 2012 11:57 AM
To: Burleigh, Valerie
Cc: Joe_Sobinovsky@nps.gov
Subject: Title Policy, Appalachian Trail, National Park Service

Our scanned file is not complete. Attached are copies of some of the title policy material, the copies are of poor quality. I will need to recall the file from the Archives and will follow-up after it is received.

(See attached file: title policy.pdf)

Donald T. King, Realty Officer
National Trails Land Resources Program Center
Phone 304 263-4943 FAX 304 267-8374


5 attachments

 19850227_404-19_Title_Ins_Endorse.pdf

2/6/13

DEPARTMENT OF THE INTERIOR Mail - Re: Fw: Title Policy, Appalachian Trail, National Park Service

29K

 19840227_404-19_Title_Ins_Policy.pdf

189K

 19910801_404-19_Title_Ins_Endorse_B.pdf

25K

 19920310_404-19_Title_Ins_Endorse.pdf

49K

 19910801_404-19_Title_Ins_Endorse_A.pdf

36K



Norton, Kirk <kirk_norton@nps.gov>

Fw: Our Claim 425414/Your File #L1425(2541)

1 message

Donald_T_King@nps.gov <Donald_T_King@nps.gov>

Fri, Jan 27, 2012 at 11:53 AM

To: Kirk_Norton@nps.gov, Joe_Sobinovsky@nps.gov, Heidi_Physioc@nps.gov, Deborah_Lightner@nps.gov

Cc: marcia.gittes@sol.doi.gov

fyi

Donald T. King, Realty Officer
National Trails Land Resources Program Center
Phone 304 263-4943 FAX 304 267-8374

— Forwarded by Donald T King/WASO/NPS on 01/27/2012 11:52 AM —

"Stodghill, Michael"
<Michael.Stodghill@fnf.com>

To: "donald_t_king@nps.gov"
<donald_t_king@nps.gov>

01/27/2012 11:39 AM

cc

Subject: Our Claim 425414/Your File #L1425(2541)

Dear Mr. King:

Please see attached letter concerning the referenced matter.

Thank you, and best regards,

Michael A. Stodghill
Senior Claims Counsel
Fidelity National Title Group
6601 Frances Street
Omaha, NE 68106
Tel: (888) 453-4095 | Direct: (402) 498-7105
Fax: (402) 970-3829
Email: Michael.Stodghill@fnf.com



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(See attached file: letter to NPS 1. .12.pdf)

 letter to NPS 1.27.12.pdf
34K



Norton, Kirk <kirk_norton@nps.gov>

Fw: Acknowledgement of claim

1/27/2012

Donald_T_King@nps.gov <Donald_T_King@nps.gov>
To: Kirk_Norton@nps.gov, marcia.gittes@sol.doi.gov

Fri, Jan 27, 2012 at 10:29 AM

Donald T. King, Realty Officer
National Trails Land Resources Program Center
Phone 304 263-4943 FAX 304 267-8374

--- Forwarded by Donald T King/WASO/NPS on 01/27/2012 10:29 AM ---

"Haggard, Troy"
<Troy.Haggard@fnf.com>

To "donald_t_king@nps.gov"
<donald_t_king@nps.gov>

01/27/2012 10:00 AM

cc

Subject: Acknowledgement of claim

CHICAGO TITLE INSURANCE COMPANY

Claims Department

6601 Frances Street

Omaha, Nebraska 68106

(888) 453-4095

1/27/2012

United States Department of the Interior
Donald T. King
PO Box 908
Martinsburg, WV 25402

RE: CLAIMS ACKNOWLEDGEMENT

Claim Number: 425414

Policy/Endorsement No: 21-0687-0041, 21-0687-0041

Insured: The United States of America

Endorsement:

Property: 7.078 acres

MD

Dear Sir/Madam:

This letter acknowledges that CHICAGO TITLE INSURANCE COMPANY as successor in interest to TICOR TITLE INSURANCE COMPANY (the "Company") has received your claim or inquiry regarding the referenced title insurance policy (the

"Policy") and/or property. Please be advised that this matter has been assigned to Michael Stodghill for investigation and administration. The purpose of the Company's investigation is to obtain a complete understanding of the facts and circumstances that form the basis of your claim.

As part of the investigation of this matter, a claims representative may contact you concerning any facts that you may have at your disposal. Also, if you have any additional information or documentation relevant to the claim that was not included with your initial correspondence, please forward it to Michael Stodghill immediately. Upon completion of its investigation, the Company will contact you and advise you of its findings.

Thank you for your cooperation during this investigation. Please include the above claim number on all correspondence. If you have any questions, please contact us by phone at (888) 453-4095.

Very truly yours,

Michael Stodghill / T.H.
michael.stodghill@fnf.com

Claims Department

Troy C. Haggard
Fidelity National Title Group
Omaha Claims Center
6601 Frances St Omaha Ne
Omaha, NE 68106
email: troy.haggard@fnf.com
phone: 1-402-498-7142
fax: 402-970-3702



The information contained in this transmission may contain privileged and confidential information. It is intended only for the use of the person(s) named above. If you are not the intended recipient, you are hereby notified that any review, dissemination, distribution or duplication of this communication is strictly prohibited. Please contact the sender by reply email and destroy all copies of the original message.



Please consider the environment before printing this email.

fun

JAN 06 2012

L1425(2541)

Re: Tract 404-19

Ticor Title
P.O. Box 45023
Jacksonville, FL 32232
ATTN: Claims Department

RE: Policy of Title Insurance No. 21-0687-0041 dated August 13, 1985.

To Whom It May Concern:

This letter is to inform you of a potential claim against the above referenced policy. This property is a part of the Appalachian National Scenic Trail (APPA) and is located in Frederick County, State of Maryland. It consists of 7.978 acres, is known for tax purposes as Parcel 45-2-149 and is designated NPS APPA Tract No. 404-19.

An adjoining property owner, Mr. George Barbato, claims that a survey of the subject property done for NPS in 1984 by William C. Sarge Engineering and Surveying Company is in error and that the correct acreage for Tract 404-19 should be 3.16 acres, as noted in deed descriptions originating in 1878, rather than 7.978 acres as surveyed by Sarge. At this time Mr. Barbato has taken no action other than writing several letters to this office and providing two loose leaf binders outlining his theories. We have included Mr. Barbato's letters as well as my responses as attachments to this letter.

On the advice the NPS Regional Solicitor, I am notifying you of a potential claim against this policy. If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,

SGD/Donald T. King

Donald T. King
Realty Officer

Kw

Attachments:

1. Barbato Reply Letter re: AT Tract 404-19 Conflicts dated 11/08/2011
2. Barbato Letter dated December 9, 2011
3. Barbato Letter Dated September 19, 2011.

bcc: L1425 Land Survey - Tract 404-19 w/attachments

Reading file

APPA:KNorton:ASteffey:1-5-2011

L:survey:appalachian trail:404-19 sarge survey review:correspondence:letter to ticor
20120104.docx

FEB 23 2010

L1425(2541)

Re: Tract 404-19

Michael A. Stodghill
Senior Claims Counsel
Fidelity National Title Group
6601 Frances Street
Omaha, Nebraska 68106

RE: Claim No. 425414

Dear Mr. Stodghill:

This letter is to follow up on our transmittal of documents related to Policy No. 21-0687-0041, Tract 404-19 of the Appalachian National Scenic Trail in Frederick County, Maryland. We sent what we believe to be all the information requested in your letter dated January 27, 2012, on January 31, 2012, via Fed Ex. If you have had a chance to review the documents, please let us know if they are sufficient or if you will need further documentation.

Thank you for your assistance in this matter.

Sincerely,

SGD/Donald T. King

Donald T. King
Realty Officer

cc: Marcia Gittes

bcc:

L1425 Land Survey - Tract 404-19

Reading File

APPA:KNorton:del:2-22-12

l:\survey\appalachian trail\404-19 sarge survey review\correspondence\letter to ticor 20120209.docx

CHRISTOPHER JOLIET
ATTORNEY AT LAW
SUITE 308
138 WEST WASHINGTON STREET
HAGERSTOWN, MARYLAND 21740

(301) 791-5150

April 10, 1992

APR 20 1992
APPALACHIAN TRAIL OFFICE

US Department of the Interior
National Park Service
Appalachian National Scenic Trail
Land Acquisition Field Office
1314 Edwin Miller Boulevard
Martinsburg, WV 25401

ATTN: Ms. Judy Brumback

RE: National Park Service/Appalachian Trail
Ticor Title Endorsement
PX0001-1-4177
Tract No. 404-19
HIMES TRACT

Dear Judy:

Enclosed please find the IRS form, settlement statement and recording receipt which were earmarked to be enclosed in our last letter to you on this tract. We inadvertently failed to enclose them in your letter, and after your inquiry we found them in the file. Also enclosed is the revised endorsement deleting Schedule B, Item No. 1, in its entirety. As per your request, each endorsement has attached the copy of the current description which you sent with your last letter.

If you need anything further on this tract, please give me a call.

Very truly yours,


Christopher Joliet

CJ/jc

Enclosure

<input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED		DMD No. 1545-0997		Proceeds From Real Estate Transactions
FILER'S name, street address, city, state, and ZIP code		1992		
USA				
FILER'S Federal Identification number n/a	TRANSFEROR'S identification number [REDACTED]	1 Date of closing 02/20/92	2 Gross proceeds \$ 8,800.00	Copy C For Filer For Paperwork Reduction Act Notice and instructions for completing this form, see Instructions for Forms 1099-S, 1098, 5498, and W-2G.
TRANSFEROR'S name HIMES, Harry C. & Neva B.		3 Address or legal description (including city, state, and ZIP code) 7.98 Acres along the Appalachian Trail in Frederick County, Maryland		
Street address (including apt. no.) 3805 Brethren Church Road City, state, and ZIP code Myersville, MD 21773		4 Check here if the transferor received or will receive property or services as part of the consideration <input type="checkbox"/>		
Account number (optional)				



Norton, Kirk <kirk_norton@nps.gov>

ANST Tract 404-19 Title Claim

1 message

Norton, Kirk <kirk_norton@nps.gov>

Wed, Jan 2, 2013 at 9:41 AM

To: Marcia Gittes <marcia.gittes@sol.doi.gov>

Cc: Donald King <dona1d_t_king@nps.gov>

Marcia

This is a case Don and I had been working on with Tony. Attached is the latest correspondence from Chicago Title Insurance Company dated December 21, 2012, as well as a memo sent to Tony and our first reply to Mr. George Barbato, the adjoining owner making the claim. The memo and letter to Mr. Barbato should serve to introduce you to the case. There are several binders worth of material sent to us by Mr. Barbato that I can send to you should you wish to see them. I've done a good deal of work as well, including a field visit.

Our question EX5(ACP)/(DPP)

If you have questions, please feel free to call me at any time.

—
Kirk W. Norton, PS, LS, PLS
Land Surveyor
National Park Service
National Trails Land Resources Program Center
1314 Edwin Miller Boulevard
Martinsburg, WV 25401
Telephone: 304-263-4943
Fax: 304-267-8374

3 attachments **Memorandum to Tony Conte re Barbato.docx**
13K **Chicago_Title_Letter_20121221.pdf**
878K **Barbato Reply Letter.docx**
16K



Donald T. King <donald_t_king@nps.gov>

Fw: Alleged Title Conflict: AT Tract 404-19

1 message

Donald_T_King@nps.gov <Donald_T_King@nps.gov>

Wed, Jan 18, 2012 at 8:48 AM

To: Joe_Sobinovsky@nps.gov, Kirk_Norton@nps.gov

Donald T. King, Realty Officer
National Trails Land Resources Program Center
Phone 304 263-4943 FAX 304 267-8374

— Forwarded by Donald T King/WASO/NPS on 01/18/2012 08:48 AM —

"Gittes, Marcia"
<Marcia.Gittes@sol.doi.gov>

To "King, Donald" <Donald_T_King@nps.gov>

01/12/2012 12:15 PM

cc

Subject Alleged Title Conflict: AT Tract 404-19

Hi Don,

Hope you and your family enjoyed the holidays. Tony asked me to review your December 22, 2011 memo regarding the alleged title conflict re: AT Tract 404-19 raised George and Susan Barbato.

EX5(ACP)/(DPP)

EX5(ACP)/(DPP)

EX5(ACP)/(DPP)

EX5(ACP)/(DPP)

EX5(ACP)/(DPP)

EX5(ACP)/(DPP)

EX5(ACP)/(DPP)

EX5(ACP)/(DPP)

Please call me to discuss.

Thanks,

Marcia

Marcia F. Gittes, Senior Attorney
U.S. Department of the Interior
Office of the Solicitor, Northeast Region
One Gateway Center, Suite 612
Newton, MA 02458-2881
(617) 527-2590

This email, along with any attachments, is considered confidential and may well be legally privileged. If you have received it in error, you are on notice of its status. Please notify us immediately by reply e-mail and then delete this message from your system. Please do not copy it or use it for any purposes, or disclose its contents to any other person. Thank you for your cooperation.



Norton, Kirk <kirk_norton@nps.gov>

Maryland Title Claim

1 message

Donald_T_King@nps.gov <Donald_T_King@nps.gov>

Tue, Jan 3, 2012 at 9:02 AM

To: Kirk_Norton@nps.gov, Joe_Sobinovsky@nps.gov

Tony Conte (Regional Solicitor) called about our letter from the landowner in Maryland about a possible claim to our lands. Tony said [REDACTED] EX5(ACP)/(DPP) He did say that we should sent a letter to the title company [REDACTED] EX5(ACP)/(DPP)

[REDACTED]

Donald T. King, Realty Officer
National Trails Land Resources Program Center
Phone 304 263-4943 FAX 304 267-8374

DEC 22 2011

L1425(2541)

Memorandum

To: Regional Solicitor, Northeast Region

From: Realty Officer

Subject: Tract 404-19 Conflict

Attached please find communications with Mr. George Barbato, an adjoiner to the Appalachian National Scenic Trail in Frederick County, Maryland. [REDACTED] EX6

[REDACTED] EX6 Through deed research and plotting, Mr. Barbato has concluded that a part of Tract 404-19 should belong to him and that the existing survey for that tract, performed by William C. Sarge Engineering and Surveying Company in 1984, is in error.

[REDACTED] EX5(ACP)/(DPP)

[REDACTED] EX5(ACP)/(DPP)

[REDACTED] EX5(ACP)/(DPP)

SGD/Donald T. King

Donald T. King

Attachments

1. Barbato Reply Letter re: AT Tract 404-19 Conflicts
2. Barbato Letter dated December 9, 2011

bcc:

Land Survey – Tract 404-19 Sarge Survey Review Jackson Election District, Frederick County,
Maryland – w/cy encl.

Reading File

APPA:KNorton:del:12-20-11

I:\survey\appalachian trail\404-19 sarge survey review\documents\memorandum to tony conte re barbato.docx

TELEPHONE REPORT

Call to: Martha Ansty
Tract: 404-19 Himes
Date: July 31, 1992

I told Martha I spoke to her a month ago about the FTO and was wondering if she had the opportunity to look at it yet. Martha said she would pull the file and call me back.

EX5(ACP)/(DPP)



Judy L. Brumback
Realty Specialist

GENERAL ROUTING SLIP*

Date & Initials

1 Chief, Land Acquisition Field Office

Chief, Mapping & Surveying Division

Chief, Appraisal Division

2 Chief, Branch of Administration

3 Chief, Acquisition Division

Fiscal Clerk

Docket Clerk

Hes

4/21/92 *dim*

4/30/92 *sd*

4/30/92 *ndd*

4 *Discor - Please call Toliet*

and confirm that he filed

the attached with IRS - office sent the

original to us let's

talk first

*NOT TO BE USED WHEN YOU WANT SOMETHING TYPED BY THE BRANCH OF ADMINISTRATION

Remarks:

EX5(DPP)

ref: W38

Tax for Real Estate

☐ VOID ☐ CORRECTED

FILER'S name, street address, city, state, and ZIP code		OMB No. 1545-0997		Proceeds From Real Estate Transactions
USA		1992		
FILER'S Federal identification number n/a	TRANSFEROR'S identification number [REDACTED]	1 Date of closing 02/20/92	2 Gross proceeds \$ 8,800.00	Copy C For Filer For Paperwork Reduction Act Notice and instructions for completing this form, see Instructions for Forms 1099, 1098, 5498, and W-2G.
TRANSFEROR'S name HIMES, Harry C. & Neva B.		3 Address or legal description (including city, state, and ZIP code) 7.98 Acres along the Appalachian Trail in Frederick County, Maryland		
Street address (including apt. no.) 3805 Brethren Church Road City, state, and ZIP code Myersville, MD 21773		4 Check here if the transferor received or will receive property or services as part of the consideration <input type="checkbox"/>		
Account number (optional)				

Form 1099-S

Department of the Treasury - Internal Revenue Service



APPEALS, SOL <foia.appeals@sol.doi.gov>

Response to Remanded Appeal 2013-104 (13-277 Barbato MD tract info) FOIA

1 message

Wilson, Charis <charis_wilson@nps.gov>

Fri, May 15, 2015 at 3:42 PM

To: George Barbato (b) (6)

Cc: SOL APPEALS <foia.appeals@sol.doi.gov>

Mr. Barbato,

This is our final response to your FOIA request NPS-2013-00277, which was assigned Appeal number 2013-104. The appeal decision remanded back to us, 11 pages for further review and processing. After completing a review of the remanded records, we are releasing in full the 11 remanded pages.

Sincerely,

C.

Ms. Charis Wilson, MLS, CRM
NPS FOIA Officer
12795 W. Alameda Parkway
PO Box 25287
Denver, CO 80225-0287
303-969-2959
Fax: 303-969-2557
1-855-NPS-FOIA

"What we find changes who we become." - Peter Morville

"The historian works with records...there is no substitute for records: no records, no history." - Paraphrasing Langlois & Seignobos (1903)

"Let us be guardians, not gardeners" - Unknown, From 1963 Living Wilderness editorial - Attributed to Adolph Murie



2013-104 FOIA Appeal-REMANDED TO NPS.pdf

2304K

CHICAGO TITLE INSURANCE COMPANY

6601 FRANCES STREET, OMAHA, NE 68106 • TEL: (402) 498-7000 • (888) 453-4095



October 12, 2012

Sent By U.S. Mail

Donald T. King
U.S. Department of the Interior
National Park Service
National Trails Land Resources Program Center
PO Box 908
Martinsburg, WV 25402-0908

RECEIVED

OCT 23 2012

National Trails Land
Resources Program Center

RE: Claim No.: 425414
Your File No.: L1425(2541)
Policy No.: 21-0687-0041
Insured: The United States of America
Property: Tract 404-19 As Described in Schedule A, Frederick County, MD

DT King
*Kirk**File*
404-19 BARBARA

Dear Mr. King:

Please be advised that the above-referenced claim has been transferred to me for processing. Please direct all future questions and correspondence relating to your claim to me at the following:

Charity F. Bolling
Fidelity National Title Group
2111 South 67th Street, Ste 210
Omaha, NE 68106
402-970-3878 phone
402-965-8888 fax
Charity.Bolling@fnf.com

Please include the above claim number on ALL future correspondence.

?
→ As you know, the Company is continuing its investigation of the above matter. The Company is currently waiting on a survey to be completed. As we continue our investigation, we may determine that additional information is required from you. If so, we will advise you accordingly.

I can be reached at the foregoing number should you wish to discuss this matter. If you are in need of any additional assistance in the future, please reference the above claim number and forward documentation to my attention.

Thank you.

Sincerely,

Charity Bolling
Charity Bolling
Claims Counsel

CHICAGO TITLE INSURANCE COMPANY

6601 FRANCES STREET, OMAHA, NE 68106 • TEL: (402) 498-7000 • (888) 453-4095

March 2, 2012

**RECEIVED****MAR 05 2012**National Trails Land
Resources Program Center**Sent By U.S. Mail**

Donald T. King
U.S. Department of the Interior
National Park Service
National Trails Land Resources Program Center
PO Box 908
Martinsburg, WV 25402-0908

RE: Claim No.: 425414
Your File No.: L1425(2541)
Policy No.: 21-0687-0041
Insured: The United States of America
Property: Tract 404-19 As Described in Schedule A, Frederick County, MD

Dear Mr. King:

As you know, I am administering the above-referenced claim that you submitted on behalf of the United States of America (the "Government") to Chicago Title Insurance Company, as successor to Ticor Title Insurance Company (the "Company") under the above-referenced owner's policy of title insurance (the "Policy"). The Company has completed its review of this matter, and can now provide you with a written coverage determination. As explained below, the Company has determined that the claim is afforded coverage.

The facts surrounding the claim, as the Company understands them, are as follows:

The claim concerns a piece of property that is part of the Appalachian National Scenic Trail in Frederick County, Maryland, consisting of approximately 7.978 acres (the "Property"). The Policy was originally issued with a Policy Date of February 27, 1984 and described the Property as consisting of two tracts owned by Harry and Neva Himes. The Policy was subsequently amended by several endorsements. The most recent amendment to the legal description of the Property is contained in an endorsement dated August 1, 1991, which refers to a legal description prepared by the Government based on a survey by William P. Sarge dated June 29, 1984 (the "Sarge Survey"). Thereafter, an endorsement dated March 10, 1992 was issued, insuring the Government as the owner of the Property.

The Government received a letter dated September 19, 2011 from George and Susan Barbato, who claim to own property adjacent to the Property. Therein, and in subsequent letters dated December 9, 2011, January 3, 2012, and February 28, 2012, the Barbatos dispute the boundary line between their property and the Property, claiming a one-acre overlap. The Barbatos further dispute the accuracy of the Sarge Survey and claim that the Government only

Donald T. King, NPS
Claim # 425414
March 2, 2012
Page 2

owns approximately 3 acres, not 7.978 acres, of land. You have submitted a claim regarding these matters.

The Policy's coverage extends to defects in title to the estate of the land described in Schedule A of the Policy. The Barbatos assert that both the Sarge Survey, and the corresponding legal description of the Property contained in the August 1, 1991 endorsement, are incorrect. The Barbatos further claim ownership of a majority of the Property based on their review of the deeds in the chain of title to the Property and to surrounding parcels, and further claim that the Government owns approximately 3 acres rather than the 7.978 acres described in the Sarge Survey. Accordingly, the Company has determined that the claim presents a covered matter, and the Company hereby accepts the claim pursuant to, and in accordance with, the terms and conditions of the Policy.

The Company is currently reviewing its options available for resolving the claim pursuant to, and in accordance with, the terms and conditions of the Policy. Once the Company has determined which option to pursue, I will be in contact with you to discuss the Company's resolution strategy for the claim. In the meantime, should a legal action be initiated in which the Government's title to the Property is attacked, please forward all documents concerning any such action to me.

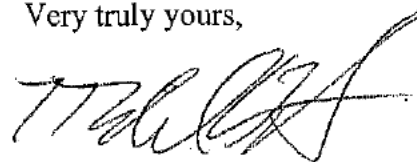
The Company's determination is based on the information presently available to the Company. The Company reserves its right to continue its independent investigation of this matter and reserves the right to assert any defense, which though not apparent at this time, becomes apparent at a later date.

Please note that reference to any particular provision of the Policy in this letter shall not be construed as a waiver of any other term or provision. The Company retains the right to supplement this letter.

In the meantime, should you have any questions or concerns, please feel free to contact me at (402) 498-7105 or by e-mail at Michael.Stodghill@fnf.com. ***Please reference the above claim number in all correspondence with my office.***

Thank you for your assistance and patience in resolving this matter.

Very truly yours,



Michael A. Stodghill
Senior Claims Counsel

CAT. NO. NND1038
TO 2352 (7-99)

ENDORSEMENT

ISSUED BY

TICOR Title Insurance Company

(Parcel #1)
Appalachian National
Scenic Trail
Tract 404-19

Attached to and forming a part of Policy of Title Insurance No. 21-0587-0041

The above referenced policy is hereby amended as follows:

SCHEDULE A: The Date of the Policy is amended to August 1, 1991 at 4:00 P.M.

SCHEDULE A, Item No. 3 is amended to read as follows:

(3) BEING now described according to a survey description prepared by the Department of the Interior, National Park Service, as Tract No. 404-19, copy of said description is attached hereto.

SCHEDULE B: State/County taxes for the fiscal year 1991-1992 are paid in the amount of \$29.49.

SCHEDULE B, Item No. 5, delete the words "including but not limited to the following".

SCHEDULE B: Delete Item No. 6, and add Item No. 7 as follows:

(7) Quitclaim Deed dated February 27, 1989 by and between the Mountain Club of Maryland, a Maryland Corporation, and the Appalachian Trail Conference, a District of Columbia Corporation, recorded on November 29, 1989 in Liber 1607, Folio 260 among the Land Records of Frederick County, Maryland.

The total liability of the Company under said policy and any endorsement therein shall not exceed, in the aggregate, the face amount of said policy and costs which the Company is obligated to pay under the Conditions and Stipulations.

Nothing herein contained shall be construed as extending or changing the effective date of said policy, unless otherwise expressly stated.

This endorsement, when countersigned below by a validating signatory, is made a part of said policy and is subject to the Exclusions from Coverage, schedules, conditions and stipulations therein, except as modified by the provisions hereof.

IN WITNESS WHEREOF, the Company has caused its corporate name and seal to be hereunto affixed by its duly authorized officers.

Dated: August 1, 1991

TICOR TITLE INSURANCE COMPANY

By

President

Countersigned:

Attest

Secretary

By

Validating Signatory

Purported Owner: Harry C. Himes, Appalachian National Scenic Trail
Jr., et ux.

Tract 404-19

All that certain tract or parcel of land lying and being situated in the Jackson Election District, Frederick County, State of Maryland, and being more particularly described as follows:

BEGINNING at a capped 5/8" rebar and a stone pile, marking a corner common to lands of the Maryland Department of Natural Resources (DNR), Tract 275 (formerly Lena C. Harshman), lands, now or formerly, of Elliot Haines, Jr. (DNR Tract 265), and subject owner; thence, with the property line of said Haines, the following three bearings and distances:

South 53° 24' 43" West, 268.36 feet to a large stone pile;

South 13° 21' 39" West, 265.97 feet to a capped 5/8" rebar in a stone pile; and,

South 23° 03' 17" West, 337.19 feet to a 5/8" rebar in a stone pile on the property line of lands, now or formerly, of Gloria J. Keller (DNR Tract 281), being a corner common to said Haines and subject owner; thence, with the property line of said Keller, North 73° 51' 25" West, 456.62 feet to a capped 5/8" rebar in a stone pile on the boundary line of DNR Tract 280 (formerly Ronald L. Henderson), being a corner common to said Keller and subject owner; thence, with the boundary line of said Tract 280 and then with the boundary line of DNR Tract 278 (formerly Leonard D. Emmert), the following two bearings and distances:

North 33° 00' 48" East, 318.22 feet to a capped 5/8" rebar by a planted stone; and,

North 28° 55' 54" East, 549.97 feet to a capped 5/8" rebar and a stone pile on the boundary line of DNR Tract 275, being a corner common to DNR Tract 278 and subject owner; thence, with the boundary line of DNR Tract 275, South 56° 59' 59" East, 429.00 feet to the point of beginning.

Containing 7.98 acres, more or less;

The above-described parcel, designated as Tract 404-19, Appalachian National Scenic Trail, is all of the same land acquired by Harry C. Himes, Jr., et ux, from Harry C. Himes, et ux, by deed dated May 29, 1981 and recorded in Deed Book 1148, Page 746, in the Land Records of Frederick County, State of Maryland.

REFERENCE IS MADE TO A SURVEY OF DNR TRACT 279 (NPS TRACT 404-19), PROBABLE OWNER: HARRY C. HIMES, JR., (DEED BK. 1148-746), BY HILBMAN C. HARRIS, SURVEYOR AND SURVEYING CO., PORT ROYAL, PA.

RECEIVED
 APPALACHIAN NATIONAL
 SCENIC TRAIL
 MARYLAND TRACT NO. 40416527 1985
 GNR 279
 APPALACHIAN TRAIL
 FIELD OFFICE

TICOR
 TITLE INSURANCE 21-0687-0041

Policy of Title Insurance

TICOR TITLE INSURANCE COMPANY, a California corporation, hereinafter called the Company, for a valuable consideration

HEREBY INSURES

THE UNITED STATES OF AMERICA

hereinafter called the Insured, against loss or damage not exceeding the amount stated in Schedule A, together with costs and expenses which the Company may become obligated to pay as provided in the Conditions and Stipulations hereof, which the Insured shall sustain by reason of

any defect in or lien or encumbrance on the title to the estate or interest covered hereby in the land described or referred to in Schedule A existing at the date hereof, not shown or referred to in Schedule B or excluded from coverage by the General Exceptions.

all subject, however, to the provisions of Schedules A and B and to the General Exceptions and to the Conditions and Stipulations herein contained, which Conditions and Stipulations and General Exceptions, together with Schedules A and B, are hereby made a part of this policy.

This policy shall not be valid or binding until countersigned below by a validating signatory of the Company.

TICOR TITLE INSURANCE COMPANY

By *David L. Apple* President

Attest *Ernest E. Eubank* Secretary

Countersigned

By *Robert N. Hunter*
 ROBERT N. HUNTER, C.E. Validating Signatory

Governmental Powers

1. Because of limitations imposed by law on ownership and use of property, or which arise from governmental powers, this policy does not insure against:

(a) consequences of the future exercise or enforcement or attempted exercise or enforcement of police power, bankruptcy power, or power of eminent domain, under any existing or future law or governmental regulation; (b) consequences of any law, ordinance or governmental regulation, now or hereafter in force, (including building and zoning ordinances) limiting or regulating the use or enjoyment of the estate or interest described in Schedule A or of the land described in Schedule C or the character, size, use or location of any improvement now or hereafter erected on said property.

Matters Not of Record

2. The following matters which are not of record at the date of this policy are not insured against:

(a) rights or claims of parties in possession not shown of record; (b) questions of survey; (c) easements, claims of easement or mechanics' liens where no notice thereof appears of record; and (d) conveyances, agreements, defects, liens or encumbrances, if any, where no notice thereof appears of record; provided, however, the provisions of this subparagraph 2(d) shall not apply if title to said estate or interest is vested in the United States of America on the date hereof.

Matters Subsequent to Date of Policy

3. This policy does not insure against loss or damage by reason of defects, liens or encumbrances created subsequent to the date hereof.

Refusal to Purchase

4. This policy does not insure against loss or damage by reason of the refusal of any person to purchase, lease or lend money on the land described in Schedule C or on the estate or interest described in Schedule A.

CAT. NO. 111-001
FD-1017 (1-83)

Schedule A

Policy No.	21-0687-0041	Date of Policy	February 27, 1984 at 4:00 p.m.
Amount of Insurance	\$ 1,000.00		

1. The estate or interest in the land described or referred to in this Schedule, covered by this policy is:

Fee Simple

2. Title to the estate or interest covered by this policy at the date hereof is vested in:

HARRY C. HIMES, JR. and NEVA R. HIMES, His wife, by virtue of that certain Deed dated May 29, 1981 from Harry C. Himes and Verna K. Himes and filed for record in Liber 1148, Folio 746, Records of Frederick County, Maryland.

3. The land referred to in this policy is situated in the County of Frederick
State of Maryland and is described as follows:

BEING all the following tract of mountain land, conveyed unto Benjamin H. Clark by deed dated the 31st day of January, 1928, executed by Charles E. Cline (Single), Maud Horine and Joshua D. Horine, her husband, John O. Cline and Eddie F. Cline (Single), Flora Smith and Charles Smith, her husband, Bessie M. Ford and Benjamin Ford, her husband, all heirs (brothers, sisters, and brothers-in-law) of Wade F. Cline, deceased, unmarried, recorded in Liber 566, Folio 44760, one of the Land Records of Frederick County, containing 5 acres, 26 perches of land, more or less.

BEING also all and the same real estate described as the Second parcel in a deed from Benjamin H. Clark unto Harry C. Himes and Verna K. Himes, the grantors herein, dated November 30, 1942, and recorded in Liber 436, Folio 473, one of the Land Records of Frederick County, Maryland.

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1980

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- Current and delinquent taxes and assessments as follows:
- (a) 1936 taxes and taxes for prior years have been paid.
 - (b) 1937 taxes have not been paid and are now due payable and delinquent and impose a lien on the subject property.
 - (c) 1934 assessment for the property has been paid and there is no delinquent assessment.
 - (d) Property has been taxed for the past 3 years and has received the assessed State, Federal, estate and inheritance taxes.
2. A general warranty deed or when necessary, a special warranty deed properly executed in recordable form involving this description of exhibit A must be tendered at closing.
3. If a copy of the above instrument not of record is required, the seller agrees to furnish it at the conveyance.
4. Statutory lien period for mechanics and materialmen has not passed and seller's affidavit will be required at closing.
5. Title to that portion of the subject property contained within the bounds of public roads, highways, easements and rights of way is subject to certain liens including but not limited to the following of record:
- (a) Right of way and easement granted by Harry Hines et al to the Potomac Edison Company recorded Original 1196 in Liber 25 Page 323. Property County Record, Harry.
 - (b) Right of way and easement granted by Harry Hines et al to the Potomac Edison Company recorded Original 1196 in Liber 25 Page 323. Property County Record, Harry.

Sched

21-0687-0041

(c) Right of way and easement granted by Harry et ux to The Potomac Edison Company record November 5, 1964 in Book Liber 714, Page 7 Frederick County Records, Maryland.

6. Equity 31/58, #16416, 5-15-1948, Harry O. J. Martha J. Hines - Bill of Complaint for D. 6-12-1948, Final Decree - Complaint to p Costs Open \$18,558

Competition and Substitutions

1. The first step in the process is to identify the problem. This involves gathering information about the situation and understanding the needs of the stakeholders involved.

2. Once the problem is identified, the next step is to develop a plan. This involves setting goals, identifying resources, and determining the steps that need to be taken to address the problem.

3. The third step is to implement the plan. This involves putting the plan into action and monitoring progress to ensure that the goals are being met.

4. Finally, the fourth step is to evaluate the results. This involves assessing the effectiveness of the plan and making adjustments as needed to improve the outcome.

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

1. The first step in the process is to identify the problem or issue that needs to be addressed. This involves gathering information and understanding the context of the problem.

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**THE LOST AND FOUND OF THE
NORTH AFRICAN WARS**

1. *Chlorophyll a* and *Chlorophyll b* were determined by the method of Arar and Collins (1971) using a Shimadzu 10A-UV spectrophotometer. The concentration of chlorophyll was expressed in $\mu\text{g mL}^{-1}$ of the sample.