

APPENDIX D: Title Insurance Requirements Checklist

NCLWF Acquisition Program

NC Land and Water Fund (NCLWF) requires title insurance and supporting documentation for all fee and conservation agreement projects in the Acquisition Program per the following requirements.

Preliminary Title Opinion

NCLWF requires submission of the Preliminary Title Opinion and related documents, i.e. vesting deed, exceptions to title, etc. for all projects.

- For single parcel projects, include all related documents identified in the Preliminary Title Opinion as a single .pdf.
- For multiple parcel projects, include all related documents identified in the Preliminary Title Opinion in a separate .pdf for each parcel.

Title Commitments

NCLWF requires title commitment for every interest to be held by the State through acquisition of the project. The title commitment must be in an amount equal to or greater than the amount attributed to the interest to be held by the State, as indicated in the Grant Contract. Depending on the project, this may include:

- Fee simple title commitment insuring the purchaser of the property

And/Or

- Conservation agreement title commitment insuring the State in the amount that NCLWF is contributing to the purchase
 - This includes insurance for State-held Conservation Easements, Conservation Easements assigned to the State, and Declarations of Covenants and Restrictions in which the State is the holder.
 - In all cases, the interest to insure is “Conservation Easement”
 - The insured should be “The State of North Carolina”
 - The legal description should reference the new conservation agreement plat

NCLWF requires that the exceptions in Schedule B will be reviewed by the Closing Attorney and will meet the following standards:

- The Attorney must provide a memo to NCLWF when there are more than 10 exceptions or when an exception needs explanation.**
- Ensure the removal of exceptions that do not impact the insured project area.
- Do not except matters of survey.
 - A blanket survey exception is only allowed if noted that the exception will be deleted from the final policy upon a survey being provided.
 - If a matter shown on the survey must be excepted, it must be listed individually. Sample language:

The following matters that are shown on the plat of survey by _____, Professional Land Surveyor, entitled “Map of Survey for the _____ “Conservation Easement for North Carolina Land and Water Fund

Contract No. _____," dated _____, which is recorded in Map Book _____, Page _____, _____ County Registry:

A. *Right(s) of Way of [Name] Road*

- Do not include unrestricted or ambiguous exceptions to coverage, nor "all easements and rights-of-way" statements.
- Do not except the conservation easement being insured. Alternate sample language:

Fee simple interest of _____ and rights of underlying fee simple owner to use the Land in any way not inconsistent with the terms of the Conservation Easement between _____ and The State of North Carolina, acting by and through the North Carolina Land and Water Fund (NCLWF), recorded in Book _____ at Page _____.

NCLWF also requires title commitments to:

- include affirmative coverage for access to a public road via ALTA endorsement form 17.1-06 or 17.0-06
- clearly omit any arbitration clause
- Please note that no additional documentation will be provided by NCLWF when a title commitment requirement requests documentation that the State of North Carolina is a validly organized entity.

Closing Protection Letter

Closing Protection for the State of North Carolina must be provided for each closing in which NCLWF funds are transferred by the Grant Recipient into the Closing Attorney's account.

- If the fee simple acquisition and conservation agreement recording are part of a simultaneous closing, one Closing Protection Letter issued off the owner's commitment is required.
- The Closing Protection Letter should be addressed to the State of North Carolina by and through the North Carolina Land and Water Fund at 1651 Mail Service Center, Raleigh, NC 27699-1651.