04-82-CD
NORTH FORTY, INC. vs. PHILIPSBURG COAL AND LAND CO. etal.

North Forty, Inc. vs Philipsburg Coal et al
2004-82-CD

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04- 82 -CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

Type of pleading:
COMPLAINT

Filed on behalf of:
PLAINTIFF, North Forty, Inc.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04- -CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

N O T I C E

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you within twenty (20) days. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any relief claimed in the complaint by the plaintiff.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County Courthouse
Second and Market Streets
Clearfield, PA 16830
(814) 765-2641

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04- -CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

COMPLAINT

COMES NOW, Plaintiff North Forty, Inc., by and through its attorney, Dwight L. Koerber, Jr., Esquire, and files the within Complaint.

1. Plaintiff is North Forty, Inc., a Pennsylvania corporation, with its principal place of business located at 768 Teutonic Avenue, Houtzdale, PA 16651.

2. Defendant Philipsburg Coal and Land Company was a Pennsylvania corporation at the time it purchased a larger portion of property in 1904 which contains the real estate that is the subject of this complaint.

3. The address, whereabouts, officers and directors of Defendant Philipsburg Coal and Land Company are unknown.

4. Plaintiff contacted the Pennsylvania Department of State, Corporation Bureau, and was informed that a corporation named "Philipsburg Coal and Land Company" was incorporated in 1977, with that date being much later than the corporation that purchased the subject property in 1904, and it is therefore asserted that the corporation named Philipsburg Coal and Land Company which was formed in 1977 cannot be the same prior 1904 owner of the subject property.

5. Plaintiff has made a diligent search of telephone directories, the United States Post Office, and the Department of State, Corporation Bureau, but has been unable to locate Defendant Philipsburg Coal and Land Company, as its whereabouts are unknown.

6. Defendant Robert Holland is believed to reside at 312 Filbert Street, Curwensville, PA 16833, with a mailing address of P. O. Box 367, Curwensville, PA 16833.

7. Defendants David W. Boerger and Judith A. Boerger, husband and wife, are believed to reside at 214 West 15th Avenue, Altoona, PA 16601.

8. On January 31, 2003, plaintiff purchased a parcel of property located in Decatur Township, Clearfield County, Pennsylvania, from David W. Boerger and Judith A. Boerger, husband and wife, with such deed recorded at Clearfield County Instrument No. 200301683.

9. Attached hereto as Appendix A is a copy of the Deed from

Defendants Boerger to plaintiff.

10. The subject property which plaintiff purchased is located at Clearfield County Assessment Map No. 112-N12-47, and was described as follows:

> ALL that piece or parcel of land situate in Decatur Township, Clearfield County, Pennsylvania, being known and designated in the Assessment Records of Clearfield County, as Tax Parcel Number 112-N12-000-00047, and consisting of 28 acres.

11. On October 1, 2003, plaintiff filed a Corrective Deed so as to clarify the description of the property, with this Corrective Deed being recorded at Clearfield County Instrument No. 200317839.

12. Attached hereto as Appendix B is a copy of the Corrective Deed filed and recorded by plaintiff.

13. The legal description of the subject property which is set forth in the recorded Corrective Deed filed by plaintiff is as follows:

> ALL that certain piece or parcel of ground situate in the Township of Decatur, County of Clearfield and Commonwealth of Pennsylvania, bounded and described as follows:
>
> BEGINNING at a stone pile located on line of land now or formerly of Darell Dufour, and being at the Northwest corner of lands of James Fahr; thence along said land now or formerly of Darell Dufour, North 80° 09′ 20" West a distance of 1497.00 feet to an iron pin located on lien of land now or formerly of Daniel Toney; thence along said land and also lands now or formerly of Loren Luciano, Irene Luciano and lands of William Yarger, South

09° 56′ 01" W a distance of 853.61 feet to an iron pin located at the Northwest corner of land now or formerly of A & G Enterprises; thence along said land, South 80° 09′ 20" East a distance of 1497.00 feet to a stone pile located on line of land of James C. Fahr; thence along said land, North 09° 56′ 01" East a distance of 853.61 feet to a stone pile and place of beginning. CONTAINING 29.335 acres.

14. It is plaintiff's position that the legal description set forth in paragraph 13 above properly sets forth the metes and bounds description and the precise location of the real estate which plaintiff acquired from David W. Boerger and Judith A. Boerger as described herein.

15. David W. Boerger and Judith A. Boerger acquired the property by Tax Claim Bureau Deed dated August 13, 1999, recorded at Clearfield County Instrument No. 199913398.

16. A mistake occurred wherein the Tax Claim Bureau Deed into the Boergers does not have the date inserted on the acknowledgment portion of the tax claim deed.

17. Attached hereto as Appendix C is a copy of the Tax Claim Bureau Deed to Defendants David W. Boerger and Judith A. Boerger.

18. The tax sale to Defendants Boerger resulted from unpaid taxes assessed to Robert Holland under Tax Claim No. 96-4179.

19. Defendant Robert Holland acquired the property by Tax Claim Bureau Deed dated December 10, 1993, and recorded at Clearfield County Deed Book Volume 1581, page 260.

20. The Tax Claim Bureau Deed by which Defendant Robert

Holland acquired the property designates ownership of the property as "unknown".

21. Attached hereto as Appendix D is a copy of the Tax Claim Bureau Deed to Defendant Holland.

22. Through the location of Parcel No. 47 as shown on the assessment maps for Clearfield County, it can be shown that the subject parcel was originally part of a 171 acre and 66 perches tract which was conveyed to Philipsburg Coal and Land Co. at Clearfield County Deed Book Volume 141, page 503, dated May 6, 1904.

23. There are no recorded deeds from the Philipsburg Coal and Land Co. as it pertains to this parcel of property.

24. Plaintiff avers and states that the subject parcel, Tax Assessment No. 47, has been held openly, notoriously and continuously for a period of time in excess of 21 years by it and its predecessors in title, with such ownership of the property being sufficient to establish good and marketable title to the said premises through prescriptive rights.

25. With respect to the tax sales that occurred involving Defendants Robert Holland and David W. and Judith A. Boerger, it is submitted that the tax sales properly divested ownership of the property to the persons purchasing it through the tax sales.

26. In the alternative, in the event there should be a deficiency of any nature in the said tax sales, plaintiff maintains

that the predecessors in title acquired good and marketable title to the property by openly, notoriously and continuously possessing the subject parcel for a period of 21 years or more, so as to enable it to acquire ownership of the said parcel through prescriptive rights.

WHEREFORE, plaintiff prays your Honorable Court to grant the following relief:

(a) Issue an Order that defendants be barred forever from asserting any right, title, lien or interest in plaintiff's land, inconsistent with the interest or claim of plaintiff set forth in this complaint, unless defendants take such action as the Order directs within 30 days thereafter. If such action is not taken within the 30 day period, the prothonotary on praecipe of the plaintiff shall enter final judgment in favor of plaintiff.

(b) Enter final judgment that the Corrective Deed filed by plaintiff affecting a right, lien, title or interest in the subject land is valid.

(c) Enter final judgment ordering the defendants, the Prothonotary or the Recorder of Deeds to file of record the Order of Court which makes the decree effective.

(d) To enter an Order directing that plaintiff be declared as the sole owner entitled to exclusive possession of the premises located in Decatur Township, Clearfield County, Pennsylvania, bounded and described as follows:

> ALL that certain piece or parcel of ground situate in the Township of Decatur, County of Clearfield and Commonwealth of Pennsylvania, bounded and described as follows:
>
> BEGINNING at a stone pile located on line of land now or formerly of Darell Dufour, and being at the Northwest corner of lands of

James Fahr; thence along said land now or formerly of Darell Dufour, North 80° 09′ 20" West a distance of 1497.00 feet to an iron pin located on lien of land now or formerly of Daniel Toney; thence along said land and also lands now or formerly of Loren Luciano, Irene Luciano and lands of William Yarger, South 09° 56′ 01" W a distance of 853.61 feet to an iron pin located at the Northwest corner of land now or formerly of A & G Enterprises; thence along said land, South 80° 09′ 20" East a distance of 1497.00 feet to a stone pile located on line of land of James C. Fahr; thence along said land, North 09° 56′ 01" East a distance of 853.61 feet to a stone pile and place of beginning. CONTAINING 29.335 acres.

(e) Enter any other Order necessary for the granting of proper relief to plaintiff.

Respectfully submitted,

By: _____
Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff,
NORTH FORTY, INC.

AFFIDAVIT

COMMONWEALTH OF PENNSYLVANIA:
:SS:
COUNTY OF CLEARFIELD :

JAMES C. FAHR, being duly sworn according to law, deposes and states that he is the President of NORTH FORTY, INC., and that as such, being authorized to do so, he has read the foregoing Complaint, and avers that the facts set forth therein are true and correct to the best of his information, knowledge and belief.

James C. Fahr
James C. Fahr
DATE: 1-19-04

Sworn to and subscribed
before me this 19th
day of January, 2004.

Sharon A. Hudson
Notary Public

Notarial Seal
Sharon A. Hudson, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires Dec. 9, 2006
Member, Pennsylvania Association Of Notaries

APPENDIX A

Attached hereto is a copy of the Deed from David W. Boerger and Judith A. Boerger to North Forty, Inc.

County Parcel No. 112-N12-47

QUIT-CLAIM DEED,

MADE the 31 day of January, in the year two thousand three (2003),

BETWEEN **DAVID W. BOERGER** and **JUDITH A. BOERGER**, Husband and Wife, of 214 West 15th Avenue, Altoona, Pennsylvania 16601, hereinafter referred to as GRANTORS, Parties of the First Part,

A
N
D

NORTH FORTY, INC., a Pennsylvania Domestic Nonprofit Corporation, with its principal place of business located at 768 Teutonic Avenue, Houtzdale, Pennsylvania 16651, hereinafter referred to as GRANTEE, Party of the Second Part,

WITNESSETH, that in consideration of the sum of **TWELVE THOUSAND AND NO/100 ($12,000.00) DOLLARS**, in hand paid, the receipt whereof is hereby acknowledged, the Grantors do hereby release and quit-claim to the said Grantee, its heirs and assigns:

> **ALL** that piece or parcel of land situate in Decatur Township, Clearfield County, Pennsylvania, being known and designated in the Assessment Records of Clearfield County, as Tax Parcel Number 112-N12-000-00047, and consisting of 28 acres.

BEING the same piece or parcel of land conveyed by The Tax Claim Bureau of Clearfield County, Pennsylvania to David W. Boerger and Judith A. Boerger, by Tax Claim Bureau Deed dated August 13, 1999, and recorded in the Office of the Recorder of Deeds of Clearfield County to Instrument Number 199913398.

KAREN L. STARCK
EGISTER AND RECORDER
CLEARFIELD COUNTY
Pennsylvania

INSTRUMENT NUMBER
200301683
RECORDED ON
eb 04, 2003
2:40:06 PM
Total Pages: 3

CORDING FEES - $13.00
CORDER
UNTY IMPROVEMENT $2.00
ND
CORDER IMPROVEMENT $3.00
ND
S/ACCESS TO $10.00
STICE
ATE TRANSFER TAX $120.00
ATE WRIT TAX $0.50
CATUR TOWNSHIP $60.00
ILIPSBURG-OSCEOLA $60.00
HOOLS
TAL $268.50
CUSTOMER
ERBER, DWIGHT

IN WITNESS WHEREOF, the said Grantors have hereunto set their hands and seals the day and year first above-written.

Sealed and delivered in the presence of:

_____ _____(SEAL)
DAVID W. BOERGER

_____ _____(SEAL)
JUDITH A. BOERGER

COMMONWEALTH OF PENNSYLVANIA:
: SS.
COUNTY OF Blair :

On this, the 31 day of January, 2003, before me, the undersigned officer, personally appeared **DAVID W. BOERGER**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

LISA A. LEIPOLD COMMONWEALTH OF PENNSYLVANIA NOTARY PUBLIC

Notarial Seal
Lisa A. Leipold, Notary Public
Duncansville Boro, Blair County
My Commission Expires Aug. 2, 2003
Member, Pennsylvania Association of Notaries

Lisa A. Leipold
Notary Public

COMMONWEALTH OF PENNSYLVANIA:
: SS.
COUNTY OF Blair :

On this, the 31 day of January, 2003, before me, the undersigned officer, personally appeared **JUDITH A. BOERGER**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purpose therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

Lisa A. Leipold
Notary Public

Notarial Seal
Lisa A. Leipold, Notary Public
Duncansville Boro, Blair County
My Commission Expires Aug. 2, 2003
Member, Pennsylvania Association of Notaries

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the Grantee herein is as follows:

768 Teutonic Avenue
Houtzdale, PA 16651

Dwight L. Koerber, Jr., Esquire
Attorney for Grantee

APPENDIX B

Attached hereto is a copy of the Corrective Deed filed by North Forty, Inc.

CLEARFIELD COUNTY
RECORDER OF DEEDS

Karen L. Starck, Recorder
Maurene Inlow - Chief Deputy
P.O. Box 361
1 North Second Street, Suite 103
Clearfield, Pennsylvania 16830

AFFIDAVIT No: 368876

Instrument Number - 200317839
Recorded On 10/1/2003 At 3:16:45 PM
*** Instrument Type - DEED**
*** Total Pages - 7**
Invoice Number - 98409
*** Grantor - NORTH FORTY INC**
*** Grantee - NORTH FORTH INC**
*** Customer - KOERBER, DWIGHT**

***RETURN DOCUMENT TO:**
DWIGHT KOERBER
110 NORTH 2ND ST
CLEARFIELD, PA 16830

*** FEES**

RECORDING FEES - RECORDER	$17.00
COUNTY IMPROVEMENT FUND	$2.00
RECORDER IMPROVEMENT FUND	$3.00
JCS/ACCESS TO JUSTICE	$10.00
STATE WRIT TAX	$0.50
TOTAL	$32.50

I hereby CERTIFY that this document is recorded in the Recorder's Office of Clearfield County, Pennsylvania.

RECORDER OF DEEDS OF CLEARFIELD COUNTY PENNSYLVANIA

Karen L. Starck

Karen L. Starck
Recorder of Deeds

THIS IS A CERTIFICATION PAGE

Do Not Detach

THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT

*** - Information denoted by an asterisk may change during the verification process and may not be reflected on this page.**

Corrective Quit Claim Deed

County Parcel Number: 112-N12-47

CORRECTIVE QUIT CLAIM DEED

MADE the 12th day of September in the year two thousand three (2003), is by and

BETWEEN **NORTH FORTY, INC.**, a Pennsylvania Corporation, with its principal place of business located at 768 Teutonic Avenue, Houtzdale, PA 16651, Party of the First Part, hereinafter referred to as "Grantor",

AND

NORTH FORTY, INC., a Pennsylvania Corporation, with its principal place of business located at 768 Teutonic Avenue, Houtzdale, PA 16651, Party of the Second Part, hereinafter referred to as "Grantee".

WITNESSETH, that in consideration of the sum of zero ($00.00) Dollars, in hand paid, the receipt whereof is hereby acknowledged, the said Grantor does hereby release, discharge and quitclaim to the said Grantee, its successors and assigns, forever,

> ALL that certain piece or parcel of ground situate in the Township of Decatur, County of Clearfield and Commonwealth of Pennsylvania, bounded and described as follows:
>
> BEGINNING at a stone pile located on line of land now or formerly of Darell Dufour, and being at the Northwest corner of lands of James Fahr; thence along said land now or formerly of Darell Dufour, North 80° 09′ 20" West a distance of 1497.00 feet to an iron pin located on line of land now or formerly of Daniel Toney; thence along said land and also lands now or formerly of Loren Luciano, Irene Luciano and lands of William Yarger, South 09° 56′ 01" W a distance of 853.61 feet to an iron pin located at the Northwest corner of land now or formerly

of A & G Enterprises; thence along said land, South 80° 09′ 20" East a distance of 1497.00 feet to a stone pile located on line of land of James C. Fahr; thence along said land North 09° 56′ 01" East a distance of 853.61 feet to a stone pile and place of beginning. CONTAINING 29.335 acres, and being better described on a survey draft prepared by Kimberly Surveying, dated February 21, 2003, a copy of which is being filed contemporaneously herewith.

TOGETHER WITH all and singular the tenements, hereditaments, and appurtenances to the same belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and also all the estate, right, title, interest, property, claim and demand whatsoever, both in law and equity, of the said parties of the first part, of, in, to or out of the said premises, and every part and parcel thereof.

TO HAVE AND TO HOLD the said premises, with all and singular the appurtenances, unto the said party of the second part, its successors and assigns, to and for the only proper use and behoof of the said party of the second part, its successors and assigns forever.

BEING the same premises as were granted and conveyed by David W. Boerger and Judith A. Boerger to North Forty, Inc. by Deed dated January 31, 2003, and recorded at Clearfield County Instrument No. 200301683.

THE PURPOSE OF THIS CORRECTIVE QUIT CLAIM DEED is to clarify the legal description of the said premises, and to reaffirm and ratify the said conveyance to North Forty, Inc.

THIS TRANSFER is exempt from realty transfer tax pursuant to the provisions of 72 P.S. §8102-C.3(4).

THIS DOCUMENT MAY NOT SELL, CONVEY, TRANSFER, INCLUDE OR INSURE THE TITLE TO THE COAL AND RIGHT OF SUPPORT UNDERNEATH THE SURFACE LAND DESCRIBED OR REFERRED TO HEREIN, AND THE OWNER OR OWNERS OF SUCH COAL MAY HAVE THE COMPLETE LEGAL RIGHT TO REMOVE ALL OF SUCH COAL AND, IN THAT CONNECTION, DAMAGE MAY RESULT TO THE SURFACE OF THE LAND AND ANY HOUSE, BUILDING OR OTHER STRUCTURE ON OR IN SUCH LAND. THE INCLUSION OF THIS NOTICE DOES NOT ENLARGE, RESTRICT OR MODIFY ANY LEGAL RIGHTS OR ESTATES OTHERWISE CREATED, TRANSFERRED, EXCEPTED OR RESERVED BY THIS INSTRUMENT. (This Notice is set forth pursuant to Act No. 255, approved September 10, 1965, as amended.)

NOTICE

Grantee (hereinafter, whether one or more, called "Grantee") hereby states that he knows that he may not be obtaining the right of protection against subsidence resulting from coal mining operations and that the purchased property may be protected from damage due to mine subsidence by a private contract with the owners of the economic interests in the coal. (THIS NOTICE IS INSERTED HEREIN TO COMPLY WITH THE BITUMINOUS MINE SUBSIDENCE AND LAND CONSERVATION ACT OF 1996.)

Michael R. Overby Jr. Agent

IN WITNESS WHEREOF, said Grantor have caused this deed to be signed by its authorized representative, the President and Secretary of the corporate Grantor, the day and year first above written.

Signed in the presence of:

NORTH FORTY, INC.

By: James C Fahr
James C. Fahr, President

Attest:
Jeffrey L. Fahr
Jeffrey L. Fahr, Secretary

CERTIFICATE OF RESIDENCE

I hereby certify that the precise residence of the Grantee herein is as follows:

North Forty, Inc.
768 Teutonic Avenue
Houtzdale, PA 16651

Dwight L. Koerber, Jr., Esquire

COMMONWEALTH OF PENNSYLVANIA:
:SS:
COUNTY OF CLEARFIELD :

ON THIS, the 12th day of September, 2003, before me, a Notary Public in and for the Commonwealth of Pennsylvania, the undersigned officer, personally appeared **JAMES C. FAHR**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, who acknowledged himself to be President of **NORTH FORTY, INC.**, and that as such, he, being authorized by such corporation to do so, executed the foregoing deed for the purpose therein contained by signing his name thereon.

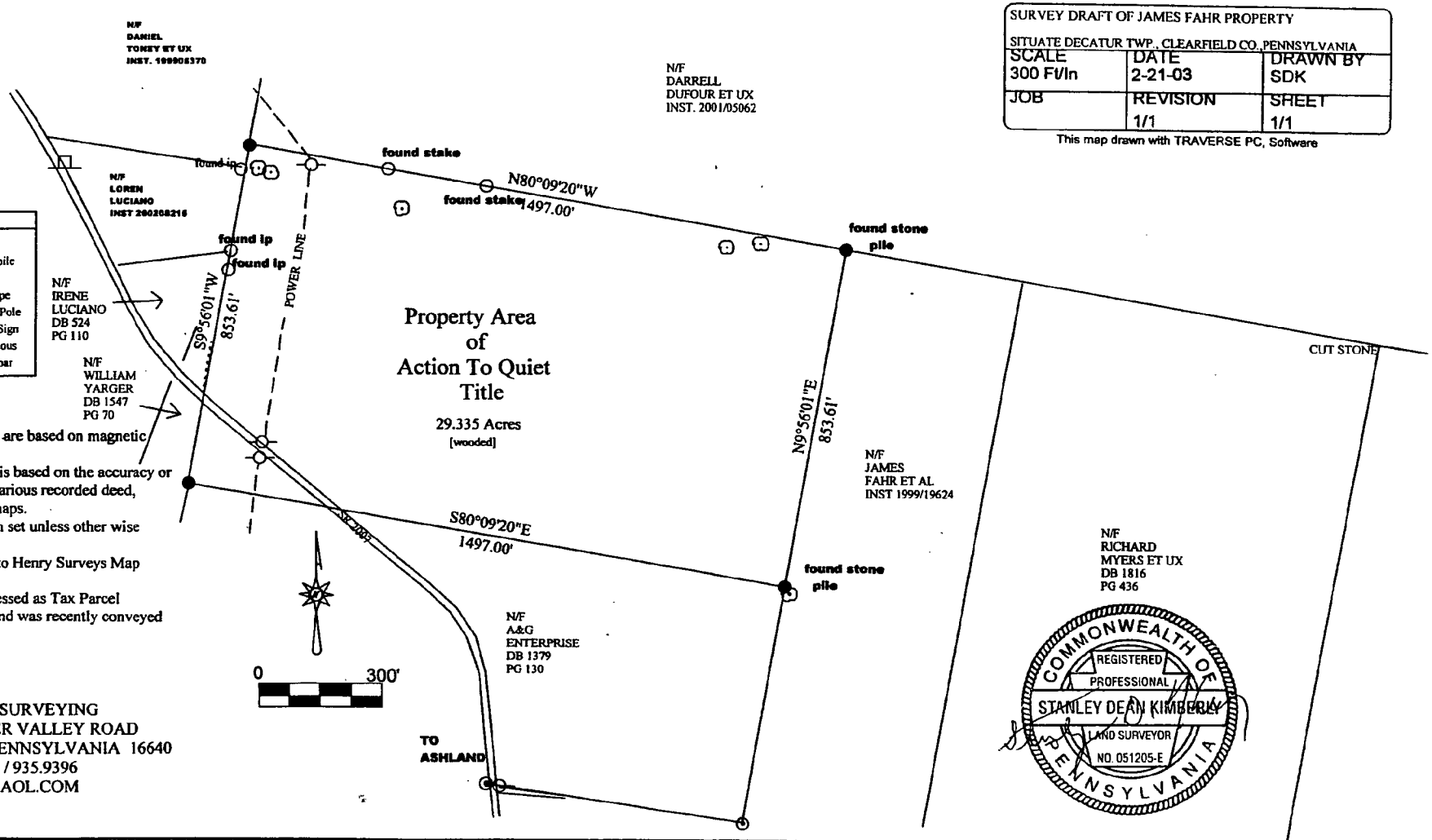
IN WITNESS WHEREOF, I have hereunto set my hand and notarial seal.

Brenda J. Bailey
Notary Public

NOTARIAL SEAL
BRENDA J. BAILEY, Notary Public
Philipsburg Boro, Clearfield County
My Commission Expires April 29, 2006

SURVEY DRAFT OF JAMES FAHR PROPERTY		
SITUATE DECATUR TWP., CLEARFIELD CO., PENNSYLVANIA		
SCALE 300 Ft/In	DATE 2-21-03	DRAWN BY SDK
JOB	REVISION 1/1	SHEET 1/1

This map drawn with TRAVERSE PC, Software



NOTES:

1. All bearings are based on magnetic North.
2. This survey is based on the accuracy or inaccuracy of various recorded deed, plats, and tax maps.
3. O = iron pin set unless other wise noted.
4. Please refer to Henry Surveys Map dated 6-04-93
5. Property assessed as Tax Parcel #112-N12-47 and was recently conveyed to James Fahr

KIMBERLY SURVEYING
1873 BEAVER VALLEY ROAD
FLINTON, PENNSYLVANIA 16640
814.687.4278 / 935.9396
SDK3NRK@AOL.COM

Traverse PC

APPENDIX C

Attached hereto is a copy of the Tax Claim Bureau Deed issued to Defendants David W. and Judith A. Boerger.

AFFIDAVIT No. 30935

TAX CLAIM BUREAU DEED

THIS DEED made the Thirteenth day of August in the year of our Lord, 1999,

BETWEEN THE TAX CLAIM BUREAU OF CLEARFIELD COUNTY, PENNSYLVANIA, Trustee, under the provisions of the Act of July 7, 1947, P.L. 1368, and amendments thereto, hereinafter called the GRANTOR,

AND

DAVID W. BOERGER
AND
JUDITH A. BOERGER

hereinafter referred to as "GRANTEES"

WHEREAS, the hereinafter described premises were assessed in the name of ROBERT HOLLAND, and taxes levied against said property for the years 1996 through 1997 which have not been paid and which are delinquent; and

WHEREAS, the delinquent taxes against the said property were filed in the Tax Claim Bureau of Clearfield County, Pennsylvania and became absolute; and

WHEREAS, after proceeding under the provisions of the Act aforesaid, the Tax Claim Bureau did expose the said premises to public sale on the Eightieth day of September 1998; and

WHEREAS, the said premises having remained unsold, a bid of Six Hundred Dollars, ($600.00), was received from DAVID W. BOERGER and JUDITH A. BOERGER, for private sale of said property, as provided or in P.L. 1368 No. 542 Sec. 613., and

WHEREAS, notification of the acceptance of this bid was sent to Decatur Township Supervisors, Philipsburg Osceola Area School District, and Clearfield County Commissioners on May 25, 1999, and notice of the proposed sale was published in the The Progress on May 25, 1999 and June 9, 1999 and in the Clearfield Legal Journal on June 4, 1999 and June 18, 1999

WHEREAS, no Order has been received from the Court of Common Pleas to halt the sale...

NOW THIS INDENTURE WITNESSETH, that for and in consideration of the sum of Six Hundred Dollars, ($600.00), the receipt thereof is hereby acknowledged, Grantor does hereby grant and convey unto the said Grantee, their heirs, successors or assigns the following described property to-wit

DECATUR TOWNSHIP
MAP #112-N12-000-00047
28 A

BEING the same property offered for sale for delinquent taxes in accordance with the provisions of the Act of Assembly hereinbefore recited under Tax Claim No. 96-4179 as the property of ROBERT HOLLAND.

This deed is executed and acknowledged by MARY ANNE WESDOCK, who was duly appointed Director of the Tax Claim Bureau by Resolution of the County Commissioners of Clearfield County, Pennsylvania, dated August 15, 1989.

IN WITNESS WHEREOF, the Grantor has caused this deed to be executed in its name and its official seal to be affixed hereto the day and year first above written.

TAX CLAIM BUREAU OF CLEARFIELD COUNTY, PENNA.

Witness: Nancy A Lawhead

Nancy A. Lawhead

By Mary Anne Wesdock

Mary Anne Wesdock
Director

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF CLEARFIELD)

On this_____day of_____, A. D., 1999, before me, the subscriber personally appeared MARY ANNE WESDOCK, Director of the Tax Claim Bureau of Clearfield County, Pennsylvania, who in due form of law acknowledged the foregoing Indenture to be her act and deed and desired that the same might be recorded as such.

WITNESS my hand and official seal the day and year aforesaid.

_____(SEAL)
Prothonotary

My commission expires the first Monday of January , 2002.

I CERTIFY that the precise residence address of the grantee in this indenture is

214 W 15TH AVENUE
ALTOONA PA
16601-5331

KAREN L. STARCK
REGISTER AND RECORDER
CLEARFIELD COUNTY, PA
Pennsylvania

INSTRUMENT NUMBER
199913398
RECORDED ON
Aug 13, 1999
2:07:00 PM

RECORDING FEES - RECORDER	$13.00
COUNTY IMPROVEMENT FUND	$1.00
RECORDER IMPROVEMENT FUND	$1.00
STATE TRANSFER TAX	$108.64
STATE WRIT TAX	$0.50
DECATUR TOWNSHIP	$54.32
PHILIPSBURG-OSCEOL SCHOOLS	$54.32
TOTAL	$232.78

Tax Clear

APPENDIX D

Attached hereto is a copy of the Tax Claim Bureau Deed issued to Defendant Robert Holland, which lists the ownership of the real estate at that time as "unknown".

VOL 1581 PAGE 260 AFFIDAVIT No. 21265

MADE the Tenth day December, in the year of our Lord, 1993,

BETWEEN THE TAX CLAIM BUREAU OF CLEARFIELD COUNTY, PENNSYLVANIA, Trustee, under the provisions of the Act of July 7, 1947, P.L. 1368, and amendments thereto, hereinafter called the GRANTOR,

AND

ROBERT HOLLAND

hereinafter referred to as "GRANTEE"

WHEREAS, the hereinafter described premises were assessed in the name of UNKNOWN, and taxes levied which have not been paid and which are delinquent; and

WHEREAS, the said delinquent taxes against the said property were filed in the Tax Claim Bureau of Clearfield County, Pennsylvania; and

WHEREAS, after proceeding under the provisions of the Act aforesaid, the Tax Claim Bureau did expose the said premises to public sale on the Fourteenth day of September, 1993; and

WHEREAS, the said premises were sold at said public sale to, UNKNOWN, for the sum of Three Thousand One Hundred Dollars, ($3,100.00), as is more particularly shown in the report and return of said sale by the Tax Claim Bureau, and at the subsequent confirmation thereof by the Court of Common Pleas of Clearfield County, Pennsylvania, at Miscellaneous Docket 10, Page 35.

NOW THIS INDENTURE WITNESSETH, that for and in consideration of the sum of Three Thousand One Hundred Dollars, ($3,100.00),the receipt thereof is hereby acknowledged, Grantor does hereby grant and convey unto the said Grantees, their heirs, successors or assigns the following described property to-wit:.

DECATUR TOWNSHIP
MAP # 112-N12-000-00047
28 A

BEING the same property offered for sale for delinquent taxes in accordancew ith the provisions of the Act of Assembly hereinbefore recited under Tax Claim No. 88-3840 as the property of UNKNOWN.

This deed is executed and acknowledged by MARY ANNE WESDOCK, who was duly appointed Director of the Tax Claim Bureau by Resolution of the County Commissioners of Clearfield County, Pennsylvania, dated August 15, 1989.

IN WITNESS WHEREOF, the Grantor has caused this deed to be executed in its name and its official seal to be affixed hereto the day and year first above written.

TAX CLAIM BUREAU OF CLEARFIELD
COUNTY, PENNA.

Witness:

James E. Bell

By Mary Anne Wesdock
Mary Anne Wesdock Director

COMMONWEALTH OF PENNSYLVANIA)
) SS:
COUNTY OF CLEARFIELD)

On this 22 day of December A. D., 1993, before me, the subscriber personally appeared MARY ANNE WESDOCK, Director of the Tax Claim Bureau of Clearfield County, Pennsylvania, who in due form of law acknowledged the foregoing Indenture to be her act and deed and desired that the same might be recorded as such.

WITNESS my hand and official seal the day and year aforesaid.

Allen D. Betz (SEAL)
Prothonotary.

My commission expires the first Monday of January, 19

PROTHONOTARY
My Commission Expires
1st Monday in Jan. 19

I CERTIFY that the precise residence address of the grantee in this indenture is

507 FILBERT STREET
CURWENSVILLE, PA.
16833

VOL 1581 PAGE 262

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF REVENUE
REALTY TRANSFER TAX JAN 10 '94
P.B. 11552
0 4 7 0 2 3
9 4. 3 3

PHILIPSBURG-OSCEOLA AREA SCHOOL DISTRICT
1% REALTY TRANSFER TAX
AMOUNT $ 94.33
PAID 1/10/94 KAREN L. STARCK
Date Agent

CLEARFIELD COUNTY 1/10/94
ENTERED OF RECORD
TIME 8:45 AM
BY [illegible]
FEES 13.50
Karen L. Starck, Recorder

I hereby CERTIFY that this document is recorded in the Recorder's Office of Clearfield County, Pennsylvania.

RECORDER OF DEEDS OF CLEARFIELD COUNTY PENNSYLVANIA

Karen L. Starck
Karen L. Starck
Recorder of Deeds

Entered of Record 1-10 1994 8:45 AM Karen L. Starck, Recorder

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
ACTION TO QUIET TITLE
Docket No. 04- -CD

NORTH FORTY, INC.,
Plaintiff

-vs-

PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns,
Defendants

COMPLAINT

FILED
013:25 BY
JAN 20 2004
William A. Shaw
Prothonotary/Clerk of Courts

6 cc
Atty Koerber
Atty pd. 95.00

LAW OFFICE
DWIGHT KOERBER, JR.
ATTORNEY-AT-LAW
110 NORTH SECOND STREET
P. O. BOX 1320
CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04- 82 -CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

Type of pleading:
MOTION FOR PUBLICATION

Filed on behalf of:
PLAINTIFF, North Forty, Inc.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

JAN 21 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED 2cc
01:30 pm Atty Koerber
JAN 23 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04- 82 -CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

Type of pleading:
MOTION FOR PUBLICATION

Filed on behalf of:
PLAINTIFF, North Forty, Inc.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

JAN 21 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04- 82 -CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

O R D E R

AND NOW, this 22nd day of January, 2004, upon consideration of the foregoing Motion For Publication of Dwight L. Koerber, Jr., attorney for plaintiff in the above-captioned action, it is hereby ORDERED AND DECREED that plaintiff is granted leave to make service of the Complaint on Defendant PHILIPSBURG COAL AND LAND COMPANY, its successors and assigns, and any other person or entity claiming or who might claim title under them, or all other persons claiming any right, title or interest in the property described in the Complaint, by publication once a week for three successive weeks in The Progress, a newspaper of general circulation in Clearfield County, Pennsylvania, and in the Clearfield County Legal Journal; and proof of publication thereof

FILED

JAN 23 2004

William A. Shaw
Prothonotary/Clerk of Courts

shall be filed with the proceedings in this action and the said advertisement shall state that the defendant is required to answer the Complaint within twenty (20) days from the last advertisement thereof.

BY THE COURT:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04- -CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

MOTION FOR PUBLICATION

COMES NOW, Plaintiff NORTH FORTY, INC., by and through its attorney, Dwight L. Koerber, Jr., Esquire, and files the within Motion, with an Affidavit having been executed and filed on behalf of plaintiff that the identity and whereabouts of the Defendant PHILIPSBURG COAL AND LAND COMPANY, its successors and assigns, are unknown, and moves this Honorable Court for leave to file the Complaint by publication in such manner as the Court shall direct, as provided by Pa.R.C.P. 430(b).

Respectfully submitted,

By: _____
Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff,
NORTH FORTY, INC.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04- -CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

AFFIDAVIT THAT DEFENDANT PHILIPSBURG COAL AND LAND COMPANY, ITS SUCCESSORS AND ASSIGNS, ARE DISSOLVED OR WHEREABOUTS UNKNOWN

COMMONWEALTH OF PENNSYLVANIA:
:SS:
COUNTY OF CLEARFIELD :

JAMES C. FAHR, President of NORTH FORTY, INC., plaintiff in the above-captioned action, being duly sworn according to law, deposes and states that the Defendant PHILIPSBURG COAL AND LAND COMPANY, its successors and assigns, and any person or entity claiming or who might claim under them, are unknown by name, and their whereabouts are unknown.

In presenting this Affidavit, Affiant is mindful of the fact that PHILIPSBURG COAL AND LAND COMPANY acquired an ownership interest to certain property located in Decatur Township in 1904, with a portion of that property being the subject of the within action.

Affiant has contacted the Pennsylvania Department of State, Corporation Bureau, and has learned that the only corporation using the name of PHILIPSURG COAL AND LAND COMPANY was incorporated in 1977, well after the date that a corporation named PHILIPSBURG COAL AND LAND COMPANY had acquired an ownership interest in certain property located in Decatur Township, Clearfield County, Pennsylvania, with that ownership interest occurring in 1904.

James C. Fahr

James C. Fahr

Sworn to and subscribed before me this 19th day of January, 2004.

Sharon A. Hudson

Notary Public

Notarial Seal
Sharon A. Hudson, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires Dec. 9, 2006
Member, Pennsylvania Association Of Notaries

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
ACTION TO QUIET TITLE
Docket No. 04- -CD

NORTH FORTY, INC.,
Plaintiff

-vs-

PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns,
Defendants

MOTION FOR PUBLICATION

FILED 2cc
01:01 PM Atty Koerber
JAN 21 2004
William A. Shaw
Prothonotary/Clerk of Courts

LAW OFFICE
DWIGHT KOERBER, JR.
ATTORNEY-AT-LAW
110 NORTH SECOND STREET
P. O. BOX 1320
CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

Type of pleading:
AMENDED ORDER

Filed on behalf of:
PLAINTIFF, North Forty, Inc.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

AMENDED ORDER

AND NOW, this 29th day of January, 2004, upon consideration of the Motion For Publication filed by Dwight L. Koerber, Jr., attorney for plaintiff in the above-captioned action, it is hereby ORDERED AND DECREED that plaintiff is granted leave to make service of the Complaint on Defendant PHILIPSBURG COAL AND LAND COMPANY, its successors and assigns, and any other person or entity claiming or who might claim title under them, or all other persons claiming any right, title or interest in the property described in the Complaint, by publication once in The Progress, a newspaper of general circulation in Clearfield County, Pennsylvania, and in the Clearfield County Legal Journal; and proof of publication thereof shall be filed with the proceedings in this

action and the said advertisement shall state that the defendant is required to answer the Complaint within twenty (20) days from the date of advertisement thereof.

BY THE COURT:

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

Type of pleading:
AFFIDAVIT OF SERVICE

Filed on behalf of:
PLAINTIFF, North Forty, Inc.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

AFFIDAVIT OF SERVICE

COMMONWEALTH OF PENNSYLVANIA:
:SS:
COUNTY OF CLEARFIELD :

DWIGHT L. KOERBER, JR., ESQUIRE, being duly sworn according to law, deposes and states that the defendants in the above-captioned matter were served with a certified copy of the Complaint, with Notice to Defend, as follows:

Philipsburg Coal and Land Company
whereabouts and address unkown
Served by publication in "The Progress" on 2/05/04 and in the "Clearfield County Legal Journal" on 2/06/04, as shown by the Proofs of Publication attached hereto;
Also served upon George S. Test, Esquire, P. O. Box 706, Philipsburg, PA 16866 by United States First Class Mail on 2/13/04.

Robert Holland
312 Filbert Street, P.O. Box 367
Curwensville, PA 16866
Served by the Office of the Clearfield County Sheriff on 1/26/04.

David W. Boerger and Judith A. Boerger
214 West 15th Avenue
Altoona, PA 16601

Both parties served by the Office of the Blair County Sheriff on 2/04/04.

Dwight L. Koerber, Jr., Esquire

Sworn to and subscribed before me this 19th day of February, 2004.

Notary Public

Notarial Seal
Joyce S. Rodkey, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires Oct. 21, 2005

Member, Pennsylvania Association of Notaries

Loren Lucian.
lands of William [illegible]
56' 01" W. a distanc[illegible]
feet to an iron pin locatec
Northwest corner of land now
formerly of A & G Enterprises;
thence along said land, South 80°
09' 20" East a distance of
1497.00 feet to a stone pile located on line of land of James C.
Fahr; thence along said land, North
09° 56' 01" East a distance of
853.31 feet to a stone pile and
place of beginning. CONTAINING
29.335 acres.

TAKE NOTICE that plaintiff is the owner of the land described hereinabove and that it has requested in its Complaint which is on file in the Office of the Prothonotary of the Court of Common Pleas of Clearfield County, that the Court decree that title to same is in it, free and clear of the claims of defendants, their successors, heirs and assigns, and any other person or persons claiming right, title or interest in the land described, or anyone claiming by, through or under them.

Should the above-named defendant, its successors and assigns, or any other entity or person claiming or who might claim title under it, or all other entities or persons claiming any right, title or interest in the land described fail to plead to the plaintiff's Complaint within twenty (20) days from the last date of publication of this notice, or fail to take such action within thirty (30) days after default judgment as the court may direct, the defendant, its successors and assigns, and any other entity or person or persons claiming or who might claim title under it, or all entities or persons claiming any right, title or interest in the land described, except plaintiff, will be forever barred from asserting any interest, lien, right or title to the said land, inconsistent with plaintiff, its successors and assigns.

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the court. You are warned that if you fail to do so the case may proceed without and a judgment may be entered against you without further notice for the relief requested by plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

COURT ADMINISTRATOR
Clearfield County
Clearfield County Courthouse
Second and Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 5982

By: Dwight L. Koerber, Jr.
110 North Second Street
P.O. Box 1320
Clearfield, PA 16830
(814) 765-9611

2:5-1d-b

the most
rate scandals
in bankruptc
James Sen
said: "I am
flicts of int
else."
He added
ban would "
sional advic
bankers give
... reduce the
the bankrupt
A yes vot
ban.
Voting yes
Murtha, Hoe
Voting n
Peterson, G
Sherwood,
Murphy, Pla
Not votin
Weldon.

Company
for and nine
on Jan. 28 p
that would e
reduce cont
defined-bene
over the ne
would shift r
treasuries to
Guaranty Co
insures pens
to taxpayers.
The bill
term corpora
culating the
funds, savin
nies an estim
two years in
Also, the
pressed airli
panies to rec
cent over the
payments re
underfunded
ary standard
them $16 bill
Defined-b
those in whic
specific pens
such as their
of service.
When the
backed PBG
in deficit, is
least some c
bility.
Max Bau
the bill is n
tion but mus
"the retirem
lions of work
ance."
John Mc
"Once again,

e military
anjorski,
Holden.
n, Hart,
Shuster,
Pitts,
Gerlach,
oting 158
House on
mendment
manently
he bank-
enables
erty and
ganizing
to sepa-
apter 12
tion dis-
acted in
porarily
expired
farmers
eek pro-
e harsh-
., called
ill show
are com-
family
or they
., called
r cynical
ers and
r small-
d con-
manent-
a clean
anjorski,
Holden.
n, Hart,
Shuster,
Pitts,
Gerlach,
Voting
nst, the
ected a
flicts of
n credi-
edings.
S 1920,
estment
epresent
file for

IN THE COURT
OF COMMON PLEAS
OF CLEARFIELD COUNTY,
PENNSYLVANIA
CIVIL DIVISION
Docket No. 04-82-CD
ACTION TO
QUIET TITLE
NORTH FORTY, INC., Plaintiff
vs.
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants

LEGAL NOTICE

TO THE ABOVE NAMED DEFENDANT PHILIPSBURG COAL AND LAND COMPANY:

You are hereby notified that the Plaintiff listed above has filed a Complaint in Action to Quiet Title regarding a certain property situate in Decatur Township, Clearfield County, PA, and further described as follows:

ALL that certain piece or parcel of ground situate in the Township of Decatur, County of Clearfield and Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a stone pile located on line of land now or formerly of Darell Dufour, and being at the Northwest corner of lands of James Fahr; thence along said land now or formerly of Darell Dufour, North 80° 09' 20" West a distance of 1497.00 feet to an iron pin located on lien of land now or formerly of Daniel Toney; thence along said land and also lands now or formerly of [illegible]o, Irene Luciano and [illegible]arger, South 09° [illegible]e of 853.61 [illegible]d at the [illegible] or

PROOF OF PUBLICATION

STATE OF PENNSYLVANIA :
: SS:
COUNTY OF CLEARFIELD :

On this 12th day of February, A.D. 20 04, before me, the subscriber, a Notary Public in and for said County and State, personally appeared Margaret E. Krebs, who being duly sworn according to law, deposes and says that she is the President of The Progressive Publishing Company, Inc., and Associate Publisher of The Progress, a daily newspaper published at Clearfield, in the County of Clearfield and State of Pennsylvania, and established April 5, 1913, and that the annexed is a true copy of a notice or advertisement published in said publication in

the regular issues of February 5, 2004.

And that the affiant is not interested in the subject matter of the notice or advertising, and that all of the allegations of this statement as to the time, place, and character of publication are true.

Margaret E. Krebs

Sworn and subscribed to before me the day and year aforesaid.

Cheryl J. Robison

Notary Public Clearfield, Pa.

My Commission Expires
October 31, 2007

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Cheryl J. Robison, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires Oct. 31, 2007

Member, Pennsylvania Association Of Notaries

PROOF OF PUBLICATION

STATE OF PENNSYLVANIA :

:

COUNTY OF CLEARFIELD :

On this 3rd day of February AD 2004, before me, the subscriber, a Notary Public in and for said County and State, personally appeared Gary A. Knaresboro editor of the Clearfield County Legal Journal of the Courts of Clearfield County, and that the annexed is a true copy of the notice or advertisement published in said publication in the regular issues of Week of February 6, 2004, No. 6. And that all of the allegations of this statement as to the time, place, and character of the publication are true.

Gary A. Knaresboro, Esquire
Editor

Sworn and subscribed to before me the day and year aforesaid.

Sharon J Pusey
Notary Public
My Commission Expires

NOTARIAL SEAL
SHARON J. PUSEY, Notary Public
Clearfield, Clearfield County, PA
My Commission Expires APRIL 7, 2007

Dwight L Koerber Jr
PO Box 1320
Clearfield PA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL ACTION

NORTH FORTY, INC., Plaintiff vs. PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns, and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants.

No. 04-82-CD
ACTION TO QUIET TITLE

TO: THE ABOVE-NAMED DEFENDANT PHILIPSBURG COAL AND LAND COMPANY:

You are hereby notified that the Plaintiff listed above has filed a Complaint in an Action to Quiet Title regarding title regarding a certain property situate in Decatur Township, Clearfield County, Pennsylvania, and further described as follows:

ALL that certain piece or parcel of ground situate in the Township of Decatur, County of Clearfield and Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a stone pile located on line of land now or formerly of Darell DuFour, and being at the Northwest corner of lands of James Fahr; thence along said land now or formerly of Darell DuFour, North 80 degrees 09' 20" West a distance of 1497.00 feet to an iron pin located on line of land now or formerly of Daniel Toney; thence along said land and also lands now or formerly of Loren Luciano, Irene Luciano and lands of William Yarger, South 09 degrees 56' 01" W a distance of 853.61 feet to an iron pin located at the Northwest corner of land now or formerly of A & G Enterprises; thence along said land, South 80 degrees 09' 20" East a distance of 1497.00 feet to a stone pile located on line of land of James C. Fahr; thence along said land, North 09 degrees 56' 01" East a distance of 853.61 feet to a stone pile and place of beginning. CONTAINING 29.335 acres.

TAKE NOTICE that the Plaintiff is the owner of the land described hereinabove and that they have requested in their complaint which is on file in the Office of the Prothonotary of the Court of Common Pleas of Clearfield County, that the Court decree that the title to the same is in them, free and clear of the claims of all Defendants, their heirs and assigns, and any other person or persons claiming any right, title or interest in the land described, or anyone claiming by, through or under them.

Should the above-named Defendant, its successors and assigns, or any other entity or person claiming or who might claim title under it, or all other entities or persons claiming any right, title or interest in the land described fail to plead to the plaintiff's Complaint within twenty (20) days from the last date of publication of this notice, or fail to take such action within thirty (30) days after default judgment as the Court may direct, the Defendants, their successors and assigns, and any other persons claiming any right, title or interest in the land described, except the Plaintiffs, will be forever barred from asserting any interest, lien, right or title to the said land, inconsistent with the Plaintiffs, their successors or assigns.

If you wish to defend, you must enter a written appearance personally or by attorney and file your defenses or objections in writing with the Court. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for the relief requested by the Plaintiffs. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS NOTICE TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Court Administrator, Clearfield County Court House, Second and Market Streets, Clearfield, PA 16830 (814) 765-2641, Ext. 5982

DWIGHT L. KOERBER, JR., 110 North Second Street, PO Box 1320, Clearfield, PA 16830 (814) 765-9611.

ADV: February 6th, ~~16th, 23th~~, 2004.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
Docket No. 04-82-CD

NORTH FORTY, INC.,
Plaintiff

-vs-

PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns,
Defendants

AFFIDAVIT OF SERVICE

FILED NO CC
9/3:20-01
FEB 19 2004

William A. Shaw
Prothonotary/Clerk of Courts

LAW OFFICE
DWIGHT KOERBER, JR.
ATTORNEY-AT-LAW
110 NORTH SECOND STREET
P. O. BOX 1320
CLEARFIELD, PENNSYLVANIA 16830

3

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

Type of pleading:
CERTIFICATE OF SERVICE

Filed on behalf of:
PLAINTIFF, North Forty, Inc.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

MAR 02 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

Type of pleading:
CERTIFICATE OF SERVICE

Filed on behalf of:
PLAINTIFF, North Forty, Inc.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

MAR 02 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of March, 2004, a copy of the attached Notice of Default was served upon the following defendants in the above-captioned matter by United States First Class Mail, as follows:

Mr. Robert Holland
312 Filbert Street, P.O. Box 367
Curwensville, PA 16833

Mr. David W. Boerger
214 West 15th Avenue
Altoona, PA 16601

Mrs. Judith A. Boerger
214 West 15th Avenue
Altoona, PA 16601

Dwight L. Koerber, Jr., Esquire

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

Type of pleading:
NOTICE OF DEFAULT

Filed on behalf of:
PLAINTIFF, North Forty, Inc.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

IMPORTANT NOTICE

TO THE ABOVE NAMED DEFENDANTS
DATE OF NOTICE: MARCH 2, 2004

YOU ARE IN DEFAULT BECAUSE YOU HAVE FAILED TO ENTER A WRITTEN APPEARANCE PERSONALLY OR BY ATTORNEY AND FILE IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. UNLESS YOU ACT WITHIN TEN DAYS FROM THE DATE OF THIS NOTICE, A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT A HEARING AND YOU MAY LOSE YOUR PROPERTY OR OTHER IMPORTANT RIGHTS. YOU SHOULD TAKE THIS NOTICE TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE FOLLOWING OFFICE TO FIND OUT WHERE YOU CAN GET LEGAL HELP:

DAVID S. MEHOLICK, COURT ADMINISTRATOR
Clearfield County Courthouse
Second and Market Streets
Clearfield, PA 16830
(814) 765-2641, Ext. 5982

By: _____
Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff,
NORTH FORTY, INC.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
Docket No. 04-82-CD
ACTION TO QUIET TITLE

NORTH FORTY, INC.,
Plaintiff

-vs-

PHILIPSBURG LAND AND COAL COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns,
Defendants

CERTIFICATE OF SERVICE

FILED 10 cc
10/3:28 pm
MAR 02 2004

William A. Shaw
Prothonotary/Clerk of Courts

LAW OFFICE
DWIGHT KOERBER, JR.
ATTORNEY-AT-LAW
110 NORTH SECOND STREET
P. O. BOX 1320
CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID A. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

Type of pleading:
AFFIDAVIT OF DEFAULT

Filed on behalf of:
PLAINTIFF, North Forty, Inc.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID A. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

AFFIDAVIT OF DEFAULT

COMMONWEALTH OF PENNSYLVANIA:
:SS:
COUNTY OF CLEARFIELD :

DWIGHT L. KOERBER, JR., ESQUIRE, being duly sworn according to law, deposes and states that he is counsel for plaintiff in the above-captioned matter, and that no Answer has been filed by defendants to the Notice of Default which was filed by plaintiff on March 2, 2004 and served upon Defendants Robert Holland, David W. Boerger and Judith A. Boerger by United States First Class Mail dated March 2, 2004.

Dwight L. Koerber, Jr., Esquire

Sworn to and subscribed
before me this 17th
day of March, 2004.

Notary Public

Notarial Seal
Joyce S. Rodkey, Notary Public
Clearfield Boro, Clearfield County
My Commission Expires Oct. 21, 2005
Member, Pennsylvania Association of Notaries

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
Docket No. 04-82-CD

NORTH FORTY, INC.,
Plaintiff

-vs-

PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns,
Defendants

AFFIDAVIT OF DEFAULT

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID A. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

Type of pleading:
MOTION FOR DEFAULT JUDGMENT

Filed on behalf of:
PLAINTIFF, North Forty, Inc.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

MAR 18 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID A. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

MOTION FOR DEFAULT JUDGMENT

COMES NOW, Movant North Forty, Inc., plaintiff in the above-captioned matter, by and through its attorney, Dwight L. Koerber, Jr., Esquire, and files the within motion pursuant to Pa.R.C.P. 1066.

1. A Complaint to Quiet Title with Notice to Defend was filed in this matter on January 20, 2004, requesting that respondents/defendants, and any person or entity claiming under respondents/defendants, be permanently enjoined and restrained from asserting any claim or interest in or to real property described in plaintiff's Complaint filed in this matter.

2. The said Complaint was filed in order to remove clouds on title to that certain property which was purchased by

plaintiff on January 31, 2003 through sale to plaintiff by David W. Boerger and Judith A. Boerger, and prior tax sales and tax recording mistakes as set forth in the said Complaint filed herein.

3. The property which plaintiff seeks to remove the cloud on title is that described at Clearfield County Assessment Map No. 112-N12-000-00047, and consists of 29.335 acres located in Decatur Township, Clearfield County, Pennsylvania.

4. The Corrective Deed description to the said property is that attached hereto as Appendix A.

5. Service of a certified copy of the said Complaint, with Notice to Defend, was made upon defendants/respondents as shown in the Certificate of Service filed in this matter on February 19, 2004.

6. Service of a ten-day default notice dated March 2, 2004 was made upon defendants/respondents as shown in the Affidavit of Default filed in this matter on March 17, 2004.

7. No answer has been made by the defendants/respondents to the Complaint or to the default notice filed herein.

8. Pa.R.C.P. 1066(a) specifies that this Honorable Court shall grant appropriate relief upon affidavit that a complaint containing a notice to defend has been served and that the defendant has not filed an answer.

WHEREFORE, movant/plaintiff requests this Honorable Court to

enter an Order of default judgment against Respondents/Defendants Philipsburg Coal and Land Company, its Successors and Assigns; Robert Holland, his Heirs and Assigns; and David W. Boerger and Judith A. Boerger, their Heirs and Assigns, pursuant to Pa.R.C.P. No. 1066(a).

Respectfully submitted,

By: _____
Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff,
NORTH FORTY, INC.
DATED: March 17, 2004

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of March, 2004, a copy of the Motion for Default Judgment and a copy of the Affidavit of Default were served by United States First Class Mail upon the following:

Mr. Robert Holland
312 Filbert Street
P. O. Box 367
Curwensville, PA 16833

Mr. David W. Boerger
214 West 15th Avenue
Altoona, PA 16601

Mrs. Judith A. Boerger
214 West 15th Avenue
Altoona, PA 16601

Dwight L. Koerber, Jr., Esquire

APPENDIX A

Set forth below is the Corrective Deed description of the subject real estate.

ALL that certain piece or parcel of ground situate in the Township of Decatur, County of Clearfield and Commonwealth of Pennsylvania, bounded and described as follows:

BEGINNING at a stone pile located on line of land now or formerly of Darell Dufour, and being at the Northwest corner of lands of James Fahr; thence along said land now or formerly of Darell Dufour, North 80° 09′ 20" West a distance of 1497.00 feet to an iron pin located on lien of land now or formerly of Daniel Toney; thence along said land and also lands now or formerly of Loren Luciano, Irene Luciano and lands of William Yarger, South 09° 56′ 01" W a distance of 853.61 feet to an iron pin located at the Northwest corner of land now or formerly of A & G Enterprises; thence along said land, South 80° 09′ 20" East a distance of 1497.00 feet to a stone pile located on line of land of James C. Fahr; thence along said land, North 09° 56′ 01" East a distance of 853.61 feet to a stone pile and place of beginning. CONTAINING 29.335 acres.

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
Docket No. 04-82-CD

NORTH FORTY, INC.,
Plaintiff

-vs-

PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns,
Defendants

MOTION FOR DEFAULT JUDGMENT

7cc
Atty Koesber

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID A. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

Type of pleading:
ORDER

Filed on behalf of:
PLAINTIFF, North Forty, Inc.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

MAR 22 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID A. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

O R D E R

AND NOW, this 19th day of March, 2004, an Affidavit of Service of the Complaint, with Notice to Plead, having been filed, and no answer having been made by defendants, upon motion of plaintiff pursuant to Pa.R.C.P. No. 1066(a), IT IS THE ORDER AND DECREE of this Court that a judgment by default be entered against defendants directing as follows:

(A) Defendants Philipsburg Coal and Land Company, its Successor and Assigns; Robert Holland, his Heirs and Assigns; and David W. Boerger and Judith A. Boerger, their Heirs and Assigns, and any person or entity claiming under defendants are permanently enjoined and restrained from asserting any lien, title, claim or interest in or to the following real property or

any part thereof:

> ALL that certain piece or parcel of ground situate in the Township of Decatur, County of Clearfield and Commonwealth of Pennsylvania, bounded and described as follows:
>
> BEGINNING at a stone pile located on line of land now or formerly of Darell Dufour, and being at the Northwest corner of lands of James Fahr; thence along said land now or formerly of Darell Dufour, North 80° 09′ 20" West a distance of 1497.00 feet to an iron pin located on lien of land now or formerly of Daniel Toney; thence along said land and also lands now or formerly of Loren Luciano, Irene Luciano and lands of William Yarger, South 09° 56′ 01" W a distance of 853.61 feet to an iron pin located at the Northwest corner of land now or formerly of A & G Enterprises; thence along said land, South 80° 09′ 20" East a distance of 1497.00 feet to a stone pile located on line of land of James C. Fahr; thence along said land, North 09° 56′ 01" East a distance of 853.61 feet to a stone pile and place of beginning. CONTAINING 29.335 acres.

The relief requested in the Complaint filed herein shall be granted to Plaintiff North Forty, Inc. unless defendants file a written Answer to the Complaint within thirty days of the date of this Order, setting forth their defenses to the Complaint, pursuant to Pa.R.C.P. 1066(b)(1).

IT IS THE FURTHER ORDER AND DECREE of this Court that if no such action is taken by defendants within the thirty day time period specified herein, the Prothonotary, upon Praecipe of the plaintiff, shall enter final judgment awarding the relief requested in the Complaint to plaintiff.

BY THE COURT:

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
Docket No. 04-82-CD

NORTH FORTY, INC.,
Plaintiff

-vs-

PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns,
Defendants

ORDER

6cc
019:37 ~~84~~ Atty Koerber
MAR 22 2004 ~~KEA~~ 0

LAW OFFICE
DWIGHT KOERBER, JR.
ATTORNEY AT-LAW
110 NORTH SECOND STREET
P. O. BOX 1320
CLEARFIELD, PENNSYLVANIA 16830

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

Type of pleading:
CERTIFICATE OF SERVICE

Filed on behalf of:
PLAINTIFF, North Forty, Inc.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

FILED

MAR 23 2004
o/3:00/m
William A. Shaw
Prothonotary/Clerk of Courts
no cert

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

CERTIFICATE OF SERVICE

I certify that on this 23rd day of March, 2004, a certified copy of the Affidavit of Default, a certified copy of the Motion for Default Judgment, and a certified copy of the March 19, 2004 Order of Court were served by United States First Class Mail upon the following:

Mr. Robert Holland
312 Filbert Street
P. O. Box 367
Curwensville, PA 16833

Mr. David W. Boerger
214 West 15th Avenue
Altoona, PA 16601

Mrs. Judith A. Boerger
214 West 15th Avenue
Altoona, PA 16601

Dwight L. Koerber, Jr., Esquire

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
Docket No. 04-82-CD
ACTION TO QUIET TITLE

NORTH FORTY, INC.,
Plaintiff

-vs-

PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns,
Defendants

CERTIFICATE OF SERVICE

LAW OFFICE
DWIGHT KOERBER, JR.
ATTORNEY AT-LAW
110 NORTH SECOND STREET
P. O. BOX 1320
CLEARFIELD, PENNSYLVANIA 16830

In The Court of Common Pleas of Clearfield County, Pennsylvania

NORTH FORTY, INC.

VS.

PHILIPBURG COAL AND LAND COMPANY al

COMPLAINT ACTION TO QUIET TITLE

Sheriff Docket # 15091

04-82-CD

SHERIFF RETURNS

NOW JANUARY 26, 2004 AT 11:37 AM SERVED THE WITHIN COMPLAINT ACTION TO QUIET TITLE ON ROBERT HOLLAND, DEFENDANT AT RESIDENCE, 622 RTIDGE AVE., CURWENSVILLE, CLEARFIELD COUNTY, PENNSYLVANIA BY HANDING TO ALYSIA MCCARTNEY, ADULT AT RESIDENCE A TRUE AND ATTESTED COPY OF THE ORIGINAL COMPLAINT ACTION TO QUIET TITLE AND MADE KNOWN TO HER THE CONTENTS THEREOF.
SERVED BY: COUDRIET/RYEN

NOW JANUARY 22, 2004, LARRY FIELD, SHERIFF OF BLAIR COUNTY WAS DEPUTIZED BY CHESTER A. HAWKINS, SHERIFF OF CLEARFIELD COUNTY TO SERVE THE WITHIN COMPLAINT ACTION TO QUIET TITLE ON DAVID W. BOERGER and JUDITH A. BOERGER, DEFENDANTS.

NOW FEBRUARY 4, 2004 SERVED THE WITHIN COMPLAINT ACTION TO QUIET TITLE ON DAVID W. BOERGER, DEFENDANT BY DEPUTIZING THE SHERIFF OF BLAIR COUNTY. THE RETURN OF SHERIFF FIELD IS HERETO ATTACHED AND MADE A PART OF THIS RETURN.

NOW FEBRUARY 4, 2004 SERVED THE WITHIN COMPLAINT ACTION TO QUIET TITLE ON JUDITH A. BOERGER, DEFENDANT BY DEPUTIZING THE SHERIFF OF BLAIR COUNTY. THE RETURN OF SHERIFF FIELD IS HERETO ATTACHED AND MADE A PART OF THIS RETURN.

Return Costs

Cost	Description
46.87	SHERIFF HAWKINS PAID BY: ATTY CK# 1761
30.00	SURCHARGE PAID BY: ATTY CK# 1762
36.50	BLAIR CO. SHFF. PAID BY: ATTY

Sworn to Before Me This

18th Day Of April 2004

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2006
Clearfield Co., Clearfield, PA

So Answers,

Chester A. Hawkins
by Marilyn Hamm
Chester A. Hawkins
Sheriff

FILED
01 3:36 pm
APR 15 2004

William A. Shaw
Prothonotary/Clerk of Courts

DATE RECEIVED

DATE PROCESSED

L165

SHERIFF'S DEPARTMENT

BLAIR COUNTY, PENNSYLVANIA
COURTHOUSE, HOLLIDAYSBURG, PA. 16648

600314T 1-2

SHERIFF SERVICE
PROCESS RECEIPT, and AFFIDAVIT OF RETURN

INSTRUCTIONS:
Print legibly, insuring readability of all copies.
Do not detach any copies. BCSD ENV.#

1. PLAINTIFF / S /: NORTH Fork INC
2. COURT NUMBER: 04-52 CD
3. DEFENDANT / S /: Phillipsburg Coal & Land Co ET AL
4. TYPE OF WRIT OR COMPLAINT: ACTION TO Quiet title

SERVE AT
5. NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVICE OR DESCRIPTION OF PROPERTY TO BE LEVIED, ATTACHED OR SOLD.: DAVID W. BORGER
6. ADDRESS (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code): 214 W. 15th AVE, ALTOONA, PA 16601

7. INDICATE UNUSUAL SERVICE: [X] PERSONAL [X] PERSON IN CHARGE [ ] DEPUTIZE [ ] CERT. MAIL [ ] REGISTERED MAIL [ ] POSTED [ ] OTHER

NOW, _____ ____, I, SHERIFF OF BLAIR, COUNTY, PA., do hereby deputize the Sheriff of _____ County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff.

SHERIFF OF BLAIR COUNTY

8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE:

NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN — Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriffs' sale thereof.

9. SIGNATURE of ATTORNEY or other ORIGINATOR requesting service on behalf of: Clearfield County, Dwight Korber JR [ ] PLAINTIFF [ ] DEFENDANT
10. TELEPHONE NUMBER:
11. DATE:

SPACE BELOW FOR USE OF SHERIFF ONLY — DO NOT WRITE BELOW THIS LINE

12. I acknowledge receipt of the writ or complaint as indicated above. SIGNATURE of Authorized BCSD Deputy or Clerk and Title: [signature] 13. Date Received: 1-20-04 14. Expiration/Hearing date: 2-19-04

15. I hereby CERTIFY and RETURN that I [ ] have personally served, [ ] have served person in charge, [ ] have legal evidence of service as shown in "Remarks" (on reverse) [ ] have posted the above described property with the writ or complaint described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below by handing/or Posting a TRUE and ATTESTED COPY thereof.

15. [ ] I hereby certify and return a NOT FOUND because I am unable to locate the individual, company, corporation, etc., named above. (See remarks below)

17. Name and title of individual served: DAVID BORGER
18. A person of suitable age and discretion then residing in the defendant's usual place of abode. [ ]
Read Order [ ]

19. Address of where served (complete only if different than shown above) (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code): SAME
20. Date of Service: 2-4-04
21. Time: 1915

22. ATTEMPTS	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.
11	1/20	VC	BUT	2/4/04	4C	JTC/HA									

23. Advance Costs	24.	25.	26.	27. Total Costs	28. ~~COST DUE OR~~ REFUND
150.00 Rect	109903	32.50	4.00	36.50	113.50

30. REMARKS

AFFIRMED and subscribed to before me this 5th day of February, 2004

Carol Gilges

Notarial Seal
Carol Gilges, Notary Public
Hollidaysburg Boro, Blair County
My Commission Expires Apr. 3, 2007
Member, Pennsylvania Association of Notaries

MY COMMISSION EXPIRES

SO ANSWER.

By (Sheriff/Dep. Sheriff) (Please Print or Type): Jerry J. Hoover — Date: 2-4-04

Signature of Sheriff — Date

SHERIFF OF BLAIR COUNTY

I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE OF AUTHORIZED ISSUING AUTHORITY AND TITLE.

39. Date Received

SHERIFF'S RETURN OF SERVICE

( ) (1) The within _____
upon _____, the within named
defendant by mailing to _____
by _____ mail, return receipt requested, postage
prepaid _____ on the _____,
a true and attested copy thereof at _____.
_____
_____

The return receipt signed by _____
defendant on the _____ is hereto attached and
made part of this return.

( ) (2) Outside the Commonwealth, pursuant to Pa. R.C.P. 405 (c) (1)—(2), by mailing a true and attested copy thereof at _____
_____
in the following manner.

( ) (a) To the defendant by ( ) registered ( ) certified mail, return receipt requested, postage prepaid, addressee only on the _____, said receipt being returned NOT signed by defendant, but with a notation by the Postal Authorities that defendant refused to accept the same. The returned receipt and envelope is attached hereto and made part of this return.

And thereafter:

( ) (b) To the defendant by ordinary mail addressed to defendant at same address, with the return address of the Sheriff appearing thereon, on the _____
_____

I further certify that after fifteen (15) days from the mailing date, I have not received said envelope back from the Postal Authorities. A certificate of mailing is hereto attached as a proof of mailing.

( ) (3) By publication in a daily publication of general circulation in the County of **Blair**, Commonwealth of Pennsylvania, _____ time (s) with publication appearing
_____
The affidavit from said publication is hereto attached.

( ) (4) By mailing to _____
by _____ mail, return receipt requested, postage prepaid,
_____ on the _____
a true and attested copy thereof at _____
_____
The _____ returned by the Postal
Authorities marked _____
is hereto attached.

( ) (5) Other _____
_____
_____
_____
_____
_____

DATE RECEIVED

DATE PROCESSED

SHERIFF'S DEPARTMENT

BLAIR COUNTY, PENNSYLVANIA
COURTHOUSE, HOLLIDAYSBURG, PA. 16648

00814 T 2-2

SHERIFF SERVICE
PROCESS RECEIPT, and AFFIDAVIT OF RETURN

INSTRUCTIONS:
Print legibly, insuring readability of all copies.
Do not detach any copies. BCSD ENV. #

1. PLAINTIFF / S /: North Forty INC
2. COURT NUMBER: 04-82 CD
3. DEFENDANT / S /: Philipsburg Coal and Land Co
4. TYPE OF WRIT OR COMPLAINT: Action to Quiet Title

SERVE
5. NAME OF INDIVIDUAL, COMPANY, CORPORATION, ETC., TO SERVICE OR DESCRIPTION OF PROPERTY TO BE LEVIED, ATTACHED OR SOLD.: Judith A. Boerger
AT
6. ADDRESS (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code): 214 W. 15th Ave, Altoona PA 16601

7. INDICATE UNUSUAL SERVICE: [X] PERSONAL [X] PERSON IN CHARGE [ ] DEPUTIZE [ ] CERT. MAIL [ ] REGISTERED MAIL [ ] POSTED [ ] OTHER

NOW, _____ _____, I, SHERIFF OF BLAIR, COUNTY, PA., do hereby deputize the Sheriff of _____ County to execute this Writ and make return thereof according to law. This deputation being made at the request and risk of the plaintiff.

_____ SHERIFF OF BLAIR COUNTY

8. SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE:

NOTE ONLY APPLICABLE ON WRIT OF EXECUTION: N.B. WAIVER OF WATCHMAN — Any deputy sheriff levying upon or attaching any property under within writ may leave same without a watchman, in custody of whomever is found in possession, after notifying person of levy or attachment, without liability on the part of such deputy or the sheriff to any plaintiff herein for any loss, destruction or removal of any such property before sheriffs' sale thereof.

9. SIGNATURE of ATTORNEY or other ORIGINATOR requesting service on behalf of: [ ] PLAINTIFF [ ] DEFENDANT
Dwight Korbar JR

10. TELEPHONE NUMBER

11. DATE

SPACE BELOW FOR USE OF SHERIFF ONLY — DO NOT WRITE BELOW THIS LINE

12. I acknowledge receipt of the writ or complaint as indicated above. SIGNATURE of Authorized BCSD Deputy or Clerk and Title

13. Date Received: 12-20-04

14. Expiration/Hearing date: 2-19-04

15. I hereby CERTIFY and RETURN that I [ ] have personally served, [ ] have served person in charge, [ ] have legal evidence of service as shown in "Remarks" (on reverse) [ ] have posted the above described property with the writ or complaint described on the individual, company, corporation, etc., at the address shown above or on the individual, company, corporation, etc., at the address inserted below by handing/or Posting a TRUE and ATTESTED COPY thereof.

16. [ ] I hereby certify and return a NOT FOUND because I am unable to locate the individual, company, corporation, etc., named above. (See remarks below)

17. Name and title of individual served: JUDITH BOERGER

18. A person of suitable age and discretion then residing in the defendant's usual place of abode. [ ]

Read Order [ ]

19. Address of where served (complete only if different than shown above) (Street or RFD, Apartment No., City, Boro, Twp., State and ZIP Code): SAME

20. Date of Service: 2-4-04

21. Time: 1915

22. ATTEMPTS

Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.	Date	Miles	Dep. Int.
1/30	LC	BDK												

23. Advance Costs	24.	25.	26.	27. Total Costs	28. COST DUE OR REFUND

30. REMARKS

AFFIRMED and subscribed to before me this 5th day of February, 2004

Carol Bolbo

Notarial Seal
Carol Bolbo, Notary Public
Hollidaysburg Boro, Blair County
My Commission Expires Apr. 3, 2007
Member, Pennsylvania Association of Notaries

MY COMMISSION EXPIRES

SO ANSWER.

By (Sheriff/Dep. Sheriff) (Please Print or Type): Terry T. Harper

Date: 2-4-04

Signature of Sheriff

Date

SHERIFF OF BLAIR COUNTY

I ACKNOWLEDGE RECEIPT OF THE SHERIFF'S RETURN SIGNATURE OF AUTHORIZED ISSUING AUTHORITY AND TITLE.

39. Date Received

SHERIFF'S RETURN OF SERVICE

( ) (1) The within _____
upon _____, the within named
defendant by mailing to _____
by _____ mail, return receipt requested, postage
prepaid _____ on the _____,
a true and attested copy thereof at _____.
_____
_____

The return receipt signed by _____
defendant on the _____ is hereto attached and
made part of this return.

( ) (2) Outside the Commonwealth, pursuant to Pa. R.C.P. 405 (c) (1) (2), by mailing a true and attested copy thereof at _____
_____
in the following manner.

( ) (a) To the defendant by ( ) registered ( ) certified mail, return receipt requested, postage prepaid, addressee only on the _____, said receipt being returned NOT signed by defendant, but with a notation by the Postal Authorities that defendant refused to accept the same. The returned receipt and envelope is attached hereto and made part of this return.

And thereafter:

( ) (b) To the defendant by ordinary mail addressed to defendant at same address, with the return address of the Sheriff appearing thereon, on the _____
_____

I further certify that after fifteen (15) days from the mailing date, I have not received said envelope back from the Postal Authorities. A certificate of mailing is hereto attached as a proof of mailing.

( ) (3) By publication in a daily publication of general circulation in the County of Blair Commonwealth of Pennsylvania, _____ time (s) with publication appearing
_____
The affidavit from said publication is hereto attached.

( ) (4) By mailing to _____
by _____ mail, return receipt requested, postage prepaid,
_____ on the _____
a true and attested copy thereof at _____
_____
The _____ returned by the Postal
Authorities marked _____
is hereto attached.

( ) (5) Other _____
_____
_____
_____
_____
_____

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

Type of pleading:
PRAECIPE

Filed on behalf of:
PLAINTIFF, North Forty, Inc.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

PRAECIPE

TO THE PROTHONOTARY:

Kindly enter judgment to quiet title in favor of Plaintiff NORTH FORTY, INC. and against Defendants PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, in accordance with the Order of Court dated March 19, 2004, a true and correct copy of which is attached.

Respectfully submitted,

By: _____
Dwight L. Koerber, Jr., Esquire
Attorney for Plaintiff,
NORTH FORTY, INC.
DATE: April 20, 2004

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID A. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

Type of pleading:
ORDER

Filed on behalf of:
PLAINTIFF, North Forty, Inc.

Counsel of record for this party:

Dwight L. Koerber, Jr., Esquire
PA I.D. No. 16332

110 North Second Street
P. O. Box 1320
Clearfield, PA 16830
(814) 765-9611

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

NORTH FORTY, INC., Plaintiff	*	
-vs-	*	Docket No. 04-82-CD ACTION TO QUIET TITLE
PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID A. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns, Defendants	*	

O R D E R

AND NOW, this 19th day of March, 2004, an Affidavit of Service of the Complaint, with Notice to Plead, having been filed, and no answer having been made by defendants, upon motion of plaintiff pursuant to Pa.R.C.P. No. 1066(a), IT IS THE ORDER AND DECREE of this Court that a judgment by default be entered against defendants directing as follows:

(A) Defendants Philipsburg Coal and Land Company, its Successor and Assigns; Robert Holland, his Heirs and Assigns; and David W. Boerger and Judith A. Boerger, their Heirs and Assigns, and any person or entity claiming under defendants are permanently enjoined and restrained from asserting any lien, title, claim or interest in or to the following real property or

any part thereof:

> ALL that certain piece or parcel of ground situate in the Township of Decatur, County of Clearfield and Commonwealth of Pennsylvania, bounded and described as follows:
>
> BEGINNING at a stone pile located on line of land now or formerly of Darell Dufour, and being at the Northwest corner of lands of James Fahr; thence along said land now or formerly of Darell Dufour, North 80° 09′ 20" West a distance of 1497.00 feet to an iron pin located on lien of land now or formerly of Daniel Toney; thence along said land and also lands now or formerly of Loren Luciano, Irene Luciano and lands of William Yarger, South 09° 56′ 01" W a distance of 853.61 feet to an iron pin located at the Northwest corner of land now or formerly of A & G Enterprises; thence along said land, South 80° 09′ 20" East a distance of 1497.00 feet to a stone pile located on line of land of James C. Fahr; thence along said land, North 09° 56′ 01" East a distance of 853.61 feet to a stone pile and place of beginning. CONTAINING 29.335 acres.

The relief requested in the Complaint filed herein shall be granted to Plaintiff North Forty, Inc. unless defendants file a written Answer to the Complaint within thirty days of the date of this Order, setting forth their defenses to the Complaint, pursuant to Pa.R.C.P. 1066(b)(1).

IT IS THE FURTHER ORDER AND DECREE of this Court that if no such action is taken by defendants within the thirty day time period specified herein, the Prothonotary, upon Praecipe of the plaintiff, shall enter final judgment awarding the relief requested in the Complaint to plaintiff.

BY THE COURT:

/s/ Fredric J. Ammerman

I hereby certify this to be a true and attested copy of the original statement filed in this case.

MAR 22 2004

Attest.

Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF
CLEARFIELD COUNTY, PENNSYLVANIA
Docket No. 04-82-CD

NORTH FORTY, INC.,
Plaintiff

-vs-

PHILIPSBURG COAL AND LAND COMPANY, its Successors and Assigns; ROBERT HOLLAND, his Heirs and Assigns; and DAVID W. BOERGER AND JUDITH A. BOERGER, their Heirs and Assigns,
Defendants

PRAECIPE

01/3 02/01 3cc
2007 Atty Koerber
~~1121~~

LAW OFFICE
DWIGHT KOERBER, JR.
ATTORNEY-AT-LAW
110 NORTH SECOND STREET
P. O. BOX 1320
CLEARFIELD, PENNSYLVANIA 16830