

DEED

THE TOWN OF GAY HEAD, Massachusetts, a municipal corporation, pursuant to the votes of Special Town Meetings held on December 9, 1976 and November 19, 1983 and the annual Town Meeting held on May 14, 1985, copies of which are attached hereto as Exhibit "A", in consideration of the settlement of an action pending before the United States District Court for the District of Massachusetts known as Wampanoag Tribal Council of Gay Head, Inc., et al., v. Town of Gay Head, et al., Civil Action No. 74-5826-G and pursuant to the provisions of two certain acts entitled "Wampanoag Tribal Council of Gay Head, Inc., Indian Land Claims Settlement Act 71987, Public Law 100-95", and "An Act to Implement the Settlement of Gay Head Indian Land Claims", which act was enacted by the General Court of the Commonwealth of Massachusetts as Chapter 277 of the Acts of 1985, grants to THE UNITED STATES OF AMERICA, in trust for the Wampanoag Tribe of Gay Head (Aquinnah), formerly known as The Wampanoag Tribal Council of Gay Head, Inc., a federally recognized Indian Tribe, with a mailing address of State Road, Gay Head, Massachusetts, all its right, title and interest in and to the land with any buildings and appurtenances thereon in Gay Head, County of Dukes County, Massachusetts more particularly described as follows:

PARCEL ONE: The Cranberry Lands

These land consist of the parcels shown on the Assessors Maps of the Town of Gay Head, as those maps configured on the date of this deed (the "Assessors Maps") as follows: Map 3, Parcel 1 and Map 4, Parcel 63. Copies of the said Maps 3 and 4 are attached hereto as Exhibits "B" and "C".

PARCEL TWO: The Face of the Cliffs

"The clay in the cliffs" as set forth in a set-off of the same dated December 21, 1878 in Dukes County Probate Court Proceedings Case No. D1-235, EXCEPTING AND EXCLUDING all property shown as Lot A on a "Plan of Land in Gay Head, Mass. Surveyed for Trustees of Aquinnah Realty Trust, June 8, 1989, scale 1 in. = 30 ft., Vineyard Haven Surveying, Box 1548, Beach Road, Vineyard Haven, MA 02568," and consisting of 504 Sq. Ft., which Plan is recorded in the Dukes County Registry of Deeds as Gay Head Case File No. 85.

PARCEL THREE: The Cook Lands

This land consists of the property shown on the Assessors Map as Map 11, Parcels 45 and 46. Parcel 46 is also shown as Lot 395 on the Plan of Gay Head. A copy of the said Map 11 is attached hereto as Exhibit "E".

PARCEL FOUR: The Herring Creek

Those rights reserved in a set off dated December 21, 1878 in Duker County Probate Proceeding Case No. D1-235, in the Herring Fishery, for the purpose of fishing and clearing the creeks, a strip of land one rod wide on each side of the creek, so long as the said reservation may be needed for that purpose. The approximate location of Herring Creek is shown on Gay Head Assessor's Map 11. Said Creek runs through Lots 381, 382, 383 and 384 on said Partition Plan, above mentioned, and said Creek also runs through The Cook Lands, which is Parcel Three, above mentioned.

Parcels One, Two and Four shall be sometimes referred to herein as the "Common Lands" as that term is used in Paragraph 4 of the Joint Memorandum of Understanding Concerning Settlement of the Gay Head, Massachusetts Indian Land Claims, a copy of which is attached hereto as Exhibit "F" (the "Memorandum"), and Parcels One, Two Three and Four shall be sometimes referred to herein as the "Public Settlement Lands" as that term is defined in the Wampanoag Tribal Council of Gay Head, Inc., Indian Land Claims Settlement Act of 1987, Public Law 100-95, a copy of which is attached hereto as Exhibit "G" (the "Federal Statute").

There is expressly excepted and excluded from this grant the shoreline of Parcel One ("The Cranberry Lands") and Parcel Four ("The Herring Creek") which lands abut the Vineyard Sound and Menemsha Pond and Menemsha Channel respectively. The shoreline being retained by the Town of Gay Head along Vineyard Sound shall consist of a strip extending from the mean low water mark to fifty feet inland from the mean high water mark. The shoreline along Menemsha Pond and Menemsha Channel shall consist of a strip extending from the mean low water mark to thirty feet inland from the mean high water mark.

There is further expressly excepted and excluded from this grant the shoreline of Parcel Two ("The Face of the Cliffs").

Such shoreline along The Face of the Cliffs shall consist of a strip of land extending from the mean low water mark to the base of the Gay Head Cliffs.

The above described shoreline shall continue to be owned by the Town of Gay Head and shall be available to all Gay Head residents and property owners, their guests and assigns, for recreational and other uses now commonly made of such shoreline, and shall be subject to a conservation trust with the Town of Gay Head as Trustee that shall insure the continued right of such uses by such persons. Access to the shoreline across the Common Lands shall be preserved and the roads and paths established in accordance with the Land Use Plan referred to in Paragraph 16 of the Memorandum and attached hereto as Exhibit "H" for such access shall be maintained by the Town of Gay Head.

There shall be no shoreline exception applied to Parcel Three ("The Cook Lands"), however, the pond beach of The Cook Lands as have been conveyed this day is subject to an easement to the inhabitants of the Town of Gay Head for access and beach use as more completely described in the attached Joint Memorandum of Understanding, Exhibit "F".

A strip of land on Parcel One 70 feet wide beginning 30 feet inland from mean high water and 500 feet long, starting from the terminus of the West Basin Road and running in an easterly direction along an area of West Basin now used for mooring boats (see the description on Page 7, Paragraph 11 of the Memorandum of Understanding, Exhibit "F") including the bulkhead and pier is expressly excluded from this grant.

Grantor expressly reserves the access rights to the shoreline as set forth in the Memorandum (see Paragraphs 4 and 10) and in Land Use Plan; and further expressly reserves rights of way across Parcel One along the existing ways (one proceeding from Menemsha Sound, the other from the terminus of the

Lobsterville Road at Menemsha Pond) to the clay pits, one of which rights of way is known as the "Road to the Claypits," said rights of way to the clay pits to be used for all purposes for which roads and ways are now or may hereafter be used in the Town of Gay Head.

This grant is made subject to the provisions of the following:

1. The Memorandum;
2. The Federal Statute; and
3. An Act to Implement the Settlement of Gay Head Indian Land Claims enacted by the General Court of the Commonwealth of Massachusetts; a copy of which is attached hereto as Exhibit "J".

Grantor, by the exception and delivery of this deed and Grantee by acceptance of this deed, and both parties by virtue of their existing agreements, hereby agree as follows:

1. Grantee shall cause a survey to be made of the granted premises within sixty (60) days of the date title is transferred by this deed. Grantor shall execute, deliver and record in the Dukes County Registry of Deeds a deed confirming the grant contained herein, but referring to the Public Settlement Lands as they are shown on said survey plan.
2. Neither Appendicies A and B, nor any map or plan was ever attached to the Memorandum despite a recitation to the contrary in the Memorandum.

3. No Appendix "C" was ever attached to the Land Use Plan attached hereto as Exhibit H".

WITNESS our hands and seals this *27th* day of *June*, 1992.

BOARD OF SELECTMEN OF THE
TOWN OF GAY HEAD

David E. Vanderhoop
David E. Vanderhoop

Russell H. Smith
Russell Smith

Walter E. Delaney
Walter E. Delaney

COMMONWEALTH OF MASSACHUSETTS

DUKES COUNTY, SS.

June 29

, 1992

Then personally appeared the above-named David E. Vanderhoop, Russell Smith and Walter E. Delaney and acknowledged the foregoing instrument to be their free act and deed, before me,

Constance J. [Signature]
Notary Public
My Commission Expires:

June 11, 1993